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The Solicitors' Journal.

LONDON, DECEMBER 16, 1871.

WE REGRET to have to announce the death of Mr. Blaine, who was lately appointed judge of the Marylebone County Court. It is to be hoped that the Lord Chancellor, whose recent appointments have been so peculiar, will select a thoroughly efficient man for so important a post as that which has now become vacant. The amount and importance of the work under the original jurisdiction of the county courts, has now become, in the metropolitan districts, and especially at Marylebone, so great, and the number of cases sent for trial there from the superior courts is so large, that the appointment of an incompetent, or even of an inexperienced, man, would be even more than usually mischievous.

It is satisfactory that in criticising, as we cannot help doing, somewhat severely the recent appointments, we can truthfully, and with a clear conscience, act on the rule *de mortuis nil nisi bonum*. In comparison with others made by the present Chancellor, the appointment of Mr. Blaine was an excellent one. Although he never had a large practice at the bar, he was a practising barrister, and not merely a gentleman who had been called to the bar a certain number of years ago. He had been in early life a solicitor; as a barrister he attended regularly to his profession in London and on Circuit, thus gaining that experience of the manner in which cases are disposed of by the best judges, and that power of dealing with facts and with evidence which it is impossible to gain otherwise than by constant attendance in the courts, and without which the most able man can scarcely make a good judge. In a light district he would doubtless have done his work to the general satisfaction, but he would probably not have been rapid, and we expect that he would have found the work at Marylebone somewhat heavy, especially as he was in failing health when appointed to that court. The Chancellor has also appointed one other practising barrister—Mr. Serjeant Tindal Atkinson. The special attributes of that gentleman were probably rather those of a *Nisi Prius* advocate than of a judicial character, but he had great experience, and his appointment was well deserved, and cannot be cavilled at. What is to be said of the other gentlemen appointed by the Chancellor? Some of them have shown themselves able men, and some even learned lawyers, but they have done so otherwise than by the practical exercise of their profession, while others have never shown anything of the kind. We have not the list before us, but we believe we are not wrong in saying that one and all were without experience. The last appointed, Mr. James Stephen, is doubtless both a learned and able man, but while at the bar he devoted himself to authorship or lecturing rather than to practice. It by no means follows that the author even of that scarce article, a good law book, will make a good judge, and there are several notable instances to the contrary. Power of dealing with facts is the quality most essential to make a good county court judge. There are a considerable number of men who have shown at the bar their practical ability, and who would gladly accept the position of county court judge, especially in the metropolis. If the Chancellor has any regard left for his reputation, and the good opinion of the profession, he will appoint one of these gentlemen to the Marylebone Court.

A CASE BROUGHT this day week before Mr. Mansfield at the Marylebone Police-court, under the Lodgers' Goods Protection Act of last session (34 & 35 Vict. c. 79) is decidedly worth attention, not so much on account of the question which arose under the facts there in evidence, as for the sake of the doubt it opens up upon the construction of the statute.

The object of that Act is expressed in the preamble—"Whereas lodgers are subjected to great loss and injustice by the exercise of the power possessed by the superior landlord to levy a distress on their furniture, goods and chattels for arrears of rent due to such superior landlord by his immediate lessee or tenant—" To cure this hardship the Act provides in effect that if the lodger's goods are distrained for rent due to the superior landlord, the lodger may serve the taker with a declaration that the immediate landlord "has no right of property or beneficial interest" in the goods in question, and that they are "the property, or in the lawful possession, of such lodger." If the lodger serves this declaration, accompanied by an inventory, and at the same time pays the superior landlord any rent which himself may owe to the immediate landlord (or so much as may be necessary to meet the superior landlord's claim), the "superior landlord, bailiff, or other person," is if he persist, "to be deemed guilty of an illegal distress,', and the lodger's remedy is to apply to a magistrate for the restoration of his goods: the magistrate is then to "inquire into the truth of such declaration and inventory," "and shall then make such order for the recovery of the goods or otherwise as to him shall seem just." In addition to which the superior landlord, if the distress is persisted in, becomes liable to an action at law, "in which action the truth of the declaration and inventory may be inquired into."

In the case to which we refer, the facts are stated in the *Times* report (Dec. 11) as follows:—

The trustees of the Permanent Benefit Building Society, Ludgate-hill, were summoned on the complaint of Mr. Thomas H. Cox, of 118, Highgate-road, Kentish-town, and charged with unlawfully causing to be distrained, condemned, and removed certain goods and effects, the property of the said complainant, contrary to the statute 34 & 35 Vict. c. 79. Mr. Cox stated that since December, 1869, he had lodged with Mr. Levi Lee, who was the occupier of the house named in the summons. Witness paid 10s. a week for rent. He furnished his bedroom himself, and used a sitting-room and dining-room containing some furniture belonging to Mr. Lee. A distress was put in by the chief landlord on the 3rd of November, and there was a condemnation of Mr. Lee's effects on the 9th of November. Witness bought the goods distrained upon for £19 7s., and obtained a receipt and a copy of the stamped inventory of these things from George Osborne, the broker employed to levy the distress. Witness continued to use the same rooms, and paid the same rent as before. He did not remove the goods, and on the 23rd November the defendants put in another distress, and a second inventory of Lee's effects was made by the same broker, Osborne, who was employed on the previous occasion, and who, therefore, knew that witness had purchased the goods. He, however, again enumerated them in his inventory as the property of Lee. Witness gave the defendants notice that these things were his property, but, notwithstanding his claim, the goods were condemned, and most of them removed. No arrangement was made between Mr. Lee and witness after the latter had paid for the goods, but Lee was to pay for them when he was able to buy them back again. Mr. Levi Lee stated that, at his request, the things were condemned by arrangement and sold to Mr. Cox for £19 7s. Cox said that witness could use the goods until he was in a position to pay him for them.

On Cox, the lodger, making his application to the

magistrate at Marylebone, it was argued by counsel, in opposition to his claim, that Lee, the immediate landlord, had a "beneficial interest," and, further, that the Act must be construed as protecting only those goods of lodgers which are owned and used by them, *quâ* lodgers. The defendant's counsel, on the other hand, contended that there was no "beneficial interest" in Lee, and that that being so, the words of the Act, in order to operate on the goods, required only that they should be "the property or in the lawful possession" of the lodger. Finally, the magistrate decided in the applicant's favour. He held (and on this point there seems room for no doubt) that Lee had no "beneficial interest" in the goods, the sale to his lodger having been *bonâ fide*. The case came, in his opinion, within the express words of the statute; though, in his own mind, he doubted whether it had been intended that the statute should embrace such a case. His Honour observed that "whenever an Act of Parliament was passed, the very first case which cropped up was sure to be one that had not been contemplated, in the Act, and it was so in the present instance."

The report is not very clear, but it would seem from the statement above cited that the goods in question were all in rooms for the use, if not exclusive occupation, of which the claimant Cox paid; and that being so, the decision seems right. But the case suggests further questions which might arise to trouble lawyers, under the Act. Suppose, for instance, a lodger, occupying say one room in a house, *bonâ fide* buys of his landlord all the furniture in the house, and for some good consideration him thereunto moving, allows it to remain in *statu quo*. Would the Lodgers' Goods Protection Act extend to protect from superior landlord's distress the whole of the furniture so bought, including furniture in rooms not occupied or used, perhaps never entered, by the lodger? Mr. Mansfield, apparently, would say that it would. And no doubt the furniture would be *bonâ fide* the property of the lodger, without any beneficial interest in the immediate landlord. Now, if that be the effect of this new statute, it places superior landlords (who used to be so well off) in a very inferior position indeed. An execution creditor is not bound by a bill of sale on which default of registration has been made; but to deprive the superior landlord of his remedy, not even an unregistered bill of sale would be necessary, and the widest possible door would be opened to fraud and collusion.

The question is—is the protection of the Act confined to goods in rooms hired by the lodger *quâ* lodger, or goods in the possession of the lodger *quâ* lodger? A judge might very fairly decide to construe the Act so, but until some judge has so decided no one could safely advise a client to act on such a construction. It is not uncommon to find counsel advising on the effect of enactments in this form:—"This enactment is open to such and such an interpretation; but it is one which only a judge can place upon the enactment." The present seems to us a corresponding case. If the report is accurate, Mr. Mansfield's view on this point seems unnecessary to his decision.

AT A GENERAL MEETING of the Inns of Court Rifle Volunteers held yesterday afternoon in Lincoln's inn Hall, under the presidency of Mr. Bulwer, Q.C., the senior major, a resolution was unanimously passed in favour of appointing a committee to confer with committees of the Oxford and Cambridge University Corps, upon the subject of uniform. An opinion has been widely spread in the Inns of Court R.V., especially since the Autumn manœuvres, that the uniform of that corps is capable of improvement; and at the same time it has been felt that a mutual assimilation of the uniforms of the three corps is much to be desired. The University Corps furnish a large and very valuable contingent to the "Devil's Own," and the passage of men from the former to the latter would be much facilitated and promoted if the uniforms of the three corps differed only in some minor and readily changeable detail of facings, or the like. Indeed, the common sense of such a proposal is so obvious, that it seems strange that the three corps can have existed simultaneously for so many years without something of the kind having been carried into effect.

CUMULATIVE LEGACIES.

The legal inference in favour of cumulation, where legacies are given to the same person by separate testamentary instruments, must often defeat the intention of testators. In cases of this kind there is always a degree of doubt and difficulty, greater or less; and it depends entirely upon the judge before whom the case comes to say what he conceives the intention of the testator to have been (*Mackenzie* v. *Mackenzie*, 2 Russ. 262). For this purpose you may prove the circumstances of the case, so far as to enable the Court to place itself in the situation of the testator in making his will; but you are not at liberty to prove either his motives or intentions (*Martin* v. *Drinkwater*, 2 Beav. 215). It was settled long ago by *Hurst* v. *Beach* (5 Madd. 351) that upon the question whether a legacy be substitutional or cumulative extrinsic evidence of intention is inadmissible against the expressed effect of the instrument itself, contrary to the practice of the civil law, which, according to the opinion of the learned civilians cited in *Hurst* v. *Beach*, admits evidence of every kind, including that furnished by the instructions and declarations of the testator, to assist the Court in determining the controverted fact. Thus in the very recent case of *Wilson* v. *O'Leary* (20 W. R. 28), where the reception of an affidavit by the solicitor of the testator was in question, Vice-Chancellor Bacon said that so far as it went to prove the circumstances of the testator at the time when he made the codicil, and thereby to enable the Court to place itself in the situation of the testator at that time, he thought it was admissible; but if it had been for the purpose of showing either his motives or intentions he should have disregarded and rejected it after hearing it read.

As Lord Langdale said, in *Robley* v. *Robley* (2 Beav. 95), the presumption is, that gifts made by subsequent testamentary instruments are additional to those made by the former, and that the testator, when he made the latter, had not forgotten the former, and did not mean to make the last either in vain, or in substitution for the former; but these are only presumptions, and they may be strengthened or rebutted by any circumstances which, by just inference and presumption, may enable us to ascertain what the intention of the testator really was. But let us not forget what presumption really is. Presumption is an inference raised by courts of law or equity, independently of or against the words of an instrument: *Lee* v. *Pain* (4 Ha. 201). It is not an inference in favour of a given construction of particular words, as is often supposed. In all cases where the question of cumulation or substitution arises, the controversy is occasioned by the omission of a few words; and where the second instrument, as is often the case, recites or refers to the gift in the first, the doubt is occasioned by the omission of a single word. The introduction of the word "besides," or "instead of," would at once make the whole certain, and preclude the possibility of dispute: *Guy* v. *Sharp* (1 My. & K. 589). But the number of cases in which the dispute has arisen shows how desirable it is that the rules of law upon this subject should be well settled.

These rules were laid down in *Hooley* v. *Hatton* (1 Bro. C. C. 390) and in *Hurst* v. *Beach* (*sup.*) It should here be observed that where the same specific thing is given twice, there is only one gift. This is obvious, for as Lord Hardwicke said in *Duke of St. Albans* v. *Beauclerk* (2 Atk. 636), with reference to a ruby ring bequeathed by the will, and again by the codicil, it could

be but a repetition in the nature of the thing, there being no pretence that there were two ruby rings. With regard to legacies not of a specific character, Vice-Chancellor Leach laid the rule down in *Hurst* v. *Beach* as follows:—Where a testator leaves two testamentary instruments, and in both has given a legacy *simpliciter* to the same person, the Court, considering that he who has twice given must *primâ facie* have intended to give two gifts, awards to the legatee both legacies; and it is indifferent whether the second legacy is of the same amount (*Ridges* v. *Morrison*, 1 Bro. C. C. 389) or less, or larger than the first. But if in two such instruments the legacies are not given *simpliciter*, but the motive of the gift is expressed, and the same sum is given, this Court considers these two coincidences as raising a presumption that the testator did not by the second instrument mean a second gift, but meant only a repetition of the former gift.

We have hitherto spoken of bequests given *simpliciter*. But if the bequests be distinguishable in any particular, either in the mode and time of vesting or payment, or otherwise, it is quite enough to negative the inference that the latter was to be substitutional. Thus where the legacy given by the will was the sum of £5,000 payable to the legatee at twenty-four, and the legacy given by the codicil was a like sum of £5.000, also payable to the legatee at twenty-four, Lord Eldon held that he was not at liberty, according to the practice of the Court, to declare the one to be a substitution for the other, on the ground that the codicil, unlike the will, contained no power of maintenance, and that the second legacy was not, like the first, expressly directed to carry interest from the testator's death (*Mackenzie* v. *Mackenzie*, *sup.*). In another branch of the case, Lord Eldon considered that though the two bequests were equal in amount, yet the one being vested and the other contingent, displaced the inference of substitution. On the other hand, in *Campbell* v. *Lord Radnor* (1 Bro. C. C. 271), where there were several codicils, some of which were bare repetitions of others, the Court decided that they were substitutional, and in *Hemming* v. *Gurrey* (2 S. & S. 311) the Court came to the same conclusion from comparing the form and expressions of the two instruments, from the general similarity of the annuities and legacies, and from the particular gifts of the estate thereby given.

It was said *arguendo* in *Mackenzie* v. *Mackenzie* that the rule is different in the case of a will and a single codicil, and in the case of several codicils; for that in the case of one codicil and a will the testator can hardly make a mistake; but in making subsequent codicils the testator frequently refers only to his will, and the preceding codicils made by him *may* not be to his contemplation. But this seems too refined a ground of distinction (*Cresswell* v. *Cresswell*, 16 W. R. 699). In *Tuckey* v. *Henderson* (11 W. R. 1013) there were two wills, both of which were admitted to probate. Each gave a legacy differing in amount, to the same person; and the Master of the Rolls said: "This differs from the case of a codicil. A codicil is professedly an addition to a will; but this is professedly a substitution for it." The testatrix had, moreover, in the last-mentioned case described her second will as her last will. This led to the inference of substitution.

We need not here advert to the rule of equity known as the presumption against double portions (*Pym* v. *Lockyer*, 5 My. & Cr. 29). In the case of legacies to strangers there is no principle upon which the Court should incline against cumulative legacies (*Suisse* v. *Lord Lowther*, 2 Ha. 424). There is no measure in these cases which can be applied to the intended bounty, and therefore no ground for presuming that the testator did not mean each gift to have a distinct operation (*Lee* v. *Pain*, *sup.*). This is especially so as regard legacies to servants, the leading case on which is *Suisse* v. *Lord Lowther* (*sup.*). In *Wilson* v. *O'Leary* (*sup.*), the testator by his first codicil gave a year's wages to every one of his servants and by his second codicil gave a year's wages "liberally interpreted" to every one of his servants, free of legacy duty. It was argued that, as Lord Hardwicke thought in *Duke of St. Albans* v. *Beauclerk* (*sup.*), it could not have been the intention of the testator to give *two* years' wages to every one of his servants, and that the gift must therefore be regarded as substitutional. But we are not at liberty to seek for, and be guided by, motives, where the words are express; and following *Suisse* v. *Lord Lowther*, the Vice-Chancellor held that the bequest of wages was cumulative. Lord Hardwicke's decision, as reported in *Duke of St. Albans* v. *Beauclerk* (*sup.*), has often been questioned, and, in fact, the Court has more than once declined to follow it. The later codicil was there held to be substitutional, following the rule of the civil law, that where two legacies are given under the same will one of them is void, the will and codicil being regarded, under the particular circumstances, as equivalent to one testamentary instrument. The case must now be regarded as overruled.

POINTS ON THE RULE AGAINST REMOTENESS.

III.—In Gifts to Classes.

It is clear that, upon the principle *reddendo singula singulis*, where distinct parts or sums are given to certain persons, who *quoad* their description as a class, would, as to some, be obnoxious to the rule against remoteness, whilst others would not, the shares of those members of the class who may be competent to receive the benefit would be validly given, although the shares of those conjoined with them in description may not be. It is the impossibility of distributing a gross fund between a class composed of members, some competent and others incompetent, comprised under a common description, which is the cause of the failure of these sort of gifts. So that where a testator leaves brothers or sisters surviving him, a gift of £10,000 to and amongst all the sons of testator's nephews born or to be born, would be invalid, even as to those sons of the nephews who were actually born during testator's lifetime; yet, on the other hand, a gift of £1,000 to *each* of the sons of his nephews would certainly be good, as to any son born or in *ventre sa mere* at the time of testator's death, and also, it would seem (so far as the rule against remoteness would affect the question), even as to any son who might be born at any time to any nephew of the testator who was living at the time of his decease (*Storrs* v. *Benbow*, 17 Jur. 821).

The difficulty in these cases arises from breaking up a gross sum among a class, the share of each being, according to the presumed intention of the testator, liable to be augmented or reduced according to the eventual number of the recipients. Unless the gift be so framed that the shares must, in all events, be ascertainable within the legal limits, the gift is unquestionably void. This principle is undisputed, but its application is difficult, and it must be admitted that some of the cases have been decided on grounds which are not easily referrible to satisfactory principles of distinction.

The two cases which appear to stand most in need of reconcilement are those of *Greenwood* v. *Roberts* (15 Beav. 92), and *Wilson* v. *Wilson* (7 W. R. 26, 4 Jur. N. S. 1076). The former was a bequest of sufficient to produce £200 a-year, to be paid to T. *in esse* at date of will for life, and at his decease, *amongst such of his children as might be then living*, in equal shares during their respective lives, and after the decease of any of them, so much of the capital proportionate to the share of the child so dying to be paid to the children of him or her so dying when they severally attained twenty-one years, their interests to be vested. The Master of the Rolls (Lord Romilly) held that the children of a child of T., though such child of T. was born in the testator's lifetime, could take nothing, the whole gift, after the

life estates to the children of T., being void for remoteness. In the latter case, the direction was to pay the income of a sum to testator's wife for life, and after her decease for the present and future children of J. L. (who survived testator) who should be living at the death of testator's wife, who should attain the age of twenty-one years or marrry, in equal shares, the shares of *daughters*, to be settled for their benefit for their respective lives, and afterwards for their respective children; and the present Lord Chancellor, when Vice-Chancellor, held that the share of a daughter of J. L., *who was born in the testator's lifetime*, might be settled in accordance with the will, though as to the shares of those daughters who were born after testator's decease such a direction would be void for remoteness.

In the latter case, we observe, that the gift was to a class who *per se* could all take, and they, as the direct recipients of the gift, could all be clearly ascertained without infringing the rule against remoteness; the vice (if any) was in the superadded condition, as applied to persons who were valid objects. In *Greenwood* v. *Roberts*, however, the ultimate gift (held to be invalid) was to persons who, some of them, *might* be beyond the line, *unless they were referred to distinct stocks* (all such stocks, however, being ascertainable within the legal limits), though some of the class might be competent to receive the benefit under the stock to which they were respectively referrible. The terms of description would in the abstract have comprehended those who might have been incompetent, and this seems to have vitiated the whole gift.

It is certainly arguable that the *intention* of the testator was that unless the children of *all* the children of T. could be substituted, when necessary, for their respective parents, there was nothing to show that he intended the substitution to take effect *valeat quantum*, as to some of the objects of his bounty; and as there was no gift except in the sentence which comprehended *possible* good and bad objects, the Court was not authorised to separate the objects in furtherance of any presumed intention of the testator. It may, no doubt, also be said, in regard to *Wilson* v. *Wilson*, that it appears equally to have been the intention of the testator that the shares of *all* the daughters of J. L. should be settled, and there was nothing to show that, if *all* could not be settled, he meant any of them so to be. Yet the language of the gift is certainly different, and it may possibly be thought that in *Wilson* v. *Wilson* the form of the gift was effectively the same as if the testator had said in terms, "as to each of the daughters of A. who may be born in my lifetime, or as to whom it may legally be done, I desire their shares to be settled, &c." The language in *Greenwood* v. *Roberts* may appear more intractable and less favourable to such an analogy, and not easily separable into a primary intent that such as could legally take in manner prescribed should do so, with a co-existent secondary intent that *all* should take if possible. The difficulty of distinguishing these two cases on any more substantial principle must, we think, be admitted. In both cases the present Lord Chancellor's language in *Cattlin* v. *Brown* (11 Hare, 372) appears to apply, for in both cases "the exact amount of each share of the eventually capable parties was finally ascertainable within the legal limits, and from the time it was so ascertainable no party, without the legal period, could possibly acquire the least interest in it so as to divest or diminish; nor could any party whose interest was so ascertainable within the period, or his children, acquire any interest in the shares of such other parties, so as to augment it."

A distinction founded, it should seem, on the effect of substitution, has been taken in a recent case by Vice-Chancellor Malins, in *Re Moseley's Trusts* (19 W. R. 431, 11 L. R. Eq. 499, 40 L. J. Ch. 275), which appears to be one of first impression. There the bequest was to A. for life, remainder to all her children who should attain twenty-one, and the issue of such as should die under that age leaving issue, which issue should afterwards attain twenty-one, or die under that age, leaving issue at his or her respective deceases, as tenants in common, such issue to take only the share or shares which his or her parent or parents would have taken if living. As no child of A. died under twenty-one the Vice-Chancellor held that the gifts were valid, and took effect in all the children of A. who attained twenty-one. This seems to have been treated, in effect, as if it had been a contingency with double aspect, viz., to all the children who attained twenty-one, if none died under that age leaving issue; in which event the gift would be good; while on the contrary contingency, viz., if any had died under twenty-one leaving issue, we presume it must have been held to be bad (see *Goring* v. *Howard*, 16 Sim. 395).

The Vice-Chancellor admitted that the case before him was not distinguishable from *Seaman* v. *Wood* (22 Beav. 591), which was a bequest to testator's son, E. S., for life, remainder to such of his children as being sons attained twenty-one, or daughters that age or married, and also such child or children of any son of E. S. who should die under the age of twenty-one, as being males should attain that age, or females that age or marry, in equal shares between brothers and sisters, but children of deceased sons to take parents' shares. The Master of the Rolls (Lord Romilly) held that gifts after the life estate to E. were void for remoteness. The Vice-Chancellor, however, considered the reasoning of the Master of the Rolls unsatisfactory, and held to the effect above stated.

These cases depend upon the question—whether the gifts are taken (as the case before Lord Romilly was) as to a mixed class of children and grandchildren who attain twenty-one, in which case, although the taking might be *per stirpes*, still as by possibility more than the legal period might be required for the ascertainment of *all* the objects and their respective shares, *none* could take according to the doctrine of *Leake* v. *Robinson* (2 Mer. 363), and *Dungannon* v. *Smith* (12 Ch. & F. 546);—or whether they could properly be taken (as the Vice-Chancellor regarded the case before him) as by way of substitution. We shall conclude these criticisms in another article.

RECENT DECISIONS.

EQUITY.

TAXATION—COST OF THIRD COUNSEL.

Cousens v. *Cousens*, L. J., 20 W. R. 48.

Upon taxation as between party and party the costs of a third counsel will not, as a general rule, be allowed (*Smith* v. *Earl of Effingham*, 10 Beav. 378). The mere bulk and volume of the papers is not a sufficient ground for departing from this rule (*Green* v. *Briggs*, 7 Ha. 279), though the costs of a third counsel on a rehearing were allowed, in one instance, on the ground of the peculiar difficulty of the case, where it was the opinion of the Lords Justices that the two counsel who were employed at the original hearing were overweighted (*Pearce* v. *Lindsay*, 8 W. R. 383, 1 D. F. J. 573). But the Court is in general unwilling to interfere with the exercise of the taxing-master's discretion (*Midland Railway Company* v. *Brown*, 10 Ha. App. 45).

Where a retainer had been given to a Queen's counsel, and the junior who drew the answer took silk before the hearing, the Master of the Rolls, following *Carter* v. *Barnard* (16 Sim. 157), which, however, was a special case, allowed the costs of a third counsel, as an expense which was under the circumstances "really necessary to the conduct of the cause" (*Midland Railway Company* v. *Brown*, *sup.*), observing that if the defendant had not given a brief to his former junior he might have been engaged on the other side, on account of his inti-

mate knowledge of the case, and thus inflict a severe injury on his former client. This observation would apply to every case where the junior takes silk, and a leader has been already retained; but the value of *Horsley* v. *Cox* is impaired by the *dictum* of Lord Justice James in *Cousens* v. *Cousens*, that the costs of a third counsel are not to be allowed in every case where the junior who drew the pleading has taken silk, and a leader has been already retained, but only in cases of such importance as to warrant the retainer of a Queen's counsel in the first instance. We prefer the hard and fast rule indicated by the Master of the Rolls to the rule which the remarks of the Lord Justice will probably be regarded as establishing, as the latter will have the effect of leading to a dispute in every such case, whether it is one in which a leader ought to have been retained in the first instance.

ARBITRATION CLAUSE—STAYING PROCEEDINGS UNDER THE COMMON LAW PROCEDURE ACT, S. 11.

Willesford v. *Watson*, V.C.W., 20 W. R. 32.

The reader will note the conclusion in this case that courts of equity ought in general to give effect to agreements to refer future disputes to arbitration by staying proceedings on the application of the defendant, and referring the matter in dispute to arbitration. The power to stay proceedings and refer the matter in dispute is conferred by section 11 of the Common Law Procedure Act on courts of equity as well as of common law, but no such order has hitherto been made in a court of equity, according to the Vice-Chancellor in *Willesford* v. *Watson*. The result of the cases at common law is that whether the question be one of law or not (*Randegger* v. *Holmes*, L. R. 1 C.P. 679), if it comes within the clause of arbitration, it will be referred, unless there be a suggestion of fraud. The same course is, according to the Vice-Chancellor, to be pursued in equity. Generally speaking, the Court considers that it can do more complete justice between the parties (*Croskey* v. *European Steam Navigation Company*, 8 W. R. 406), and that it can give a quicker and cheaper remedy than an arbitration; and it must often happen, as in *Wheatley* v. *Westminster Brymbo Colliery Company* (2 Dr. & S. 347), that questions arise in the suit which do not come within the scope of the arbitration clause, which was the ground on which Vice-Chancellor Kinderaley declined to stay proceedings in the last mentioned case. In *Willesford* v. *Watson* the suit prayed an injunction, but as the injunction was only prayed as ancillary to the relief which might be obtained by the award of an arbitrator, the Vice-Chancellor considered it an insufficient reason why proceedings should not be stayed under section 11. According to this decision it is enough that the parties have agreed to settle their differences by arbitration; and if they have done so the Court will give effect to their agreement in every case within its scope where there is no suggestion of fraud. The decision, if followed, will effect an important alteration of the principles of the Court as regards this jurisdiction. As to the general principle involved, see *Cooke* v. *Cooke*, L. R. 4 Eq. 77.

COMMON LAW.

INNKEEPER—NEGLIGENCE OF GUEST.

Oppenheim v. *White Lion Hotel Company*, C.P., 20 W. R. 34, L. R. 6 C. P. 515.

The result of this case may be shortly stated to be as follows:—Although, if a guest having the means to lock his chamber door omits to do so, and during the night valuable goods are stolen from his room, his omission furnishes no conclusive answer to the innkeeper, yet that omission is a circumstance on which, apart from any other evidence of negligence in him, the jury may find, if they think fit, that the loss was owing to his negligence, and thereby relieve the innkeeper from liability. The case carries the law no further than previous decisions, but it is useful on account of the manner in which the rule is laid down by Willes, J., and his comment on the expressions used in *Calye's case*.

CONTRACT—OPTION OF RELYING ON IMPROPER PERFORMANCE AS DEFENCE TO ACTION FOR PRICE OF WORK, OR OF BRINGING CROSS ACTION.

Davis v. *Hedges*, Q.B., 20 W. R. 60.

The history of the law now established, according to which a defendant in an action for the contract price of goods or of work done is permitted to give evidence of the inferiority to the contract quality of the goods or works in reduction of damages, is given at length in *Mondell* v. *Steele* (8 M. & W. 871). The present case, in which the judgment above referred to is quoted at length, follows the course of modern decisions, and definitely decides that a dictum of Lord Ellenborough's in *Samuel* v. *Fisher* (1 Campb. 190), uttered at a time when the law had not become fully settled, is not now law, even if it was then. The point decided is that the right to give such evidence in reduction of damages is optional only, and that the omission to exercise it does not prevent a cross action being subsequently brought for the breach of contract. The right is, in fact, analogous to a right to set off, the non-exercise of which, where an opportunity has been offered, clearly does not bar an action in respect of the matter which might have been set off. The ground of the decision seems to be principally that the right was introduced for the purpose of convenience and for the prevention of circuity of action, and that if it were to be held not optional, but compulsory to exercise it, it would not be convenient but frequently the reverse, and would increase litigation instead of diminishing it. That this would be so clearly follows from the decision in *Mondell* v. *Steele* that it is only the reduction in value of the subject matter that can be used in reduction of damages, and that a cross action is necessary to recover any consequential damages of the breach of contract. Blackburn and Hannen, JJ., in their judgment, say that they "do not intend to cast any doubt on the cases which decide that where a party to litigation has the opportunity of raising a question and does not avail himself of it he is in no better position than if he had raised it." We presume they meant to say, "than if he had raised it, and it had been found against him." It is, however, somewhat doubtful whether there can be said to be any general rule to that effect. We apprehend that a former action creates no estoppel upon points which might have been, but were not, in fact, in issue. To create an estoppel the point must be one which must have been decided in the former action; see *R.* v. *St. Pancras* (Peake 219, and *Boileau* v. *Rutlin* (2 Ex. 665), where it is said that the estoppel only applies to facts which are actually decided by an issue in any suit, or are admitted, either directly or indirectly, by taking a traverse of some other facts. This seems to amount to this,—that the estoppel only arises as to facts traversed or traversable, and that there is no estoppel as to affirmative issues which might have been raised but were not. It will be unsafe, therefore, to rely upon this chance allusion of these two judges as a dictum that there is any rule quite so wide in its terms as that which they say they wish to throw no doubt upon. Applying this limitation of the rule to the present case, it would have been sufficient to say that the giving evidence of the breach of contract in reduction of damages when the price is sued for is analagous to an affirmative issue rather than a traverse, although, of course, upon the common counts, it arises on the plea of "never indebted." Lush, J., in his judgment, puts the case not exactly as we have put it, although he puts what is substantially the same point. He points out an essential distinction between the class of cases including *Mariott* v. *Hampton* (7 T. R. 269, 2 Sm. Lead. Cas.), and the case before the Court. In those cases the sole ground of action was the payment made under the compulsion of the former action, and what the plaintiffs sought to do

was to undo the payment and place themselves in *statu quo*. In the present case the cause of action was the breach of contract, which existed before, and was independent of the payment. This is in effect what we have been saying, that the point in the second action is not that actually decided in the first, although it might have raised in the former action by an affirmative issue. In the same way a set off might have been pleaded in the former action, but no one would say that its not being pleaded was conclusive that there was no debt of plaintiff to defendant at the date of the former action.

It is noticeable that in America *Mondell* v. *Steele* does not appear to be law, but, under the name of "recoupment," an irregular sort of set off of counter claims of the defendant under the same contract is allowed (see Sedgwick on Damages, chapter 17), where the whole subject of which *Davis* v. *Hedges* decides one point, is elaborately discussed, although that one point does not appear to have arisen in America. We infer, however, that it would be decided as in our Court, though, of course, not for quite the same reasons.

ARBITRATOR—IMPLIED PROMISE TO USE SKILL—CONTRACT OF BROKER.

Pappa v. *Rose*, 20 W. R. 62.

It is clear law that an action cannot be brought against an arbitrator for want of skill, and the reason of this appears to be that the parties in agreeing to abide by the arbitration of a particular individual, take him with all his faults, and agree that he has as much skill as they require. In the present case the question was, whether a selling broker in a transaction of sale of raisins to be of "fair average quality in opinion of selling broker," was an arbitrator within the meaning of this rule, and it was held that he was. It seems pretty clear that he came within the principle of the rule. For some purposes it is held that a person whose duty is not to decide disputes which have arisen or which may arise, but rather to decide upon some unascertained matter so as to prevent disputes arising, is not an arbitrator. Thus a mere valuer upon a sale at a valuation or between successive occupiers or incumbents, has been held not to be an arbitrator. In *Jenkins* v. *Betham*, 15 C. B. 168, however, which seems almost the only case of an action held maintainable against a *quasi* arbitrator for want of skill, each party had appointed a valuer which the Court in the present case seemed to think made that case distinguishable. There also, the judgment was put by the Court rather upon this,—that the defendant held himself out as a valuer experienced in the valuation of dilapidations. In the present case, if the declaration had alleged that the defendant as a broker in the fruit trade held himself out as skilled in determining whether raisins were of average quality or not, and by doing so induced the plaintiff to employ him, the plaintiff's case would have been more plausible; but even in that case it is probable that it would have been necessary to allege, not only that the defendant falsely, but also that he fraudulently, represented himself as duly skilled. This, of course, it would have been impossible to prove, as doubtless the broker had a *bonâ fide* belief in his own ability.

VALUATION LIST—GROSS AND RATEABLE VALUE.

Queen v. *St. Pancras Assessment Committee*, Q.B. 20, W. R. 92.

The effect of this decision is, that in making out the valuation list under the Valuation (Metropolis) Act, 1869, the values to be stated as the gross and rateable values must be the actual gross value, and the rateable value calculated upon that gross value, notwithstanding that, by virtue of a special act, the rateable value so expressed is not the value according to which the property is to be actually rated. This seems the inevitable results of ss. 51 & 52, s. 4 & Sched. 2, but the appellants (the governors of the Founding Hospital) contended that, since section 54 preserves to privileged properties their exemptions, deductions, and allowances, and "any privilege of or provision for being rated or taxed or any exceptional principle of valuation," the gross and rateable values ought to be entered on the privileged basis, or that at least a note or instruction as to this privilege ought to be entered on the list. As to the first contention, it is, as we have said, directly in the teeth of the Act; and the second is also without any warrant from the Act. Nevertheless, it certainly seems an inconvenience that the valuation list, which is obviously intended to be the basis on which the rates and taxes enumerated in the first and second heads of section 45 are to be caculated, should really in the case of privileged property afford no information whatever, and that, with respect to them, section 45 should by virtue of section 54 be actually deprived of operation. By the old Act of 13 Geo. 2, c. 29, the hospital was not to be assessed to any rates or taxes above its value in the year 1739; and by the subsequent Act of 34 Geo. 3, c. 96, it was, with respect to certain rates, to be assessed at three-fifths of the value of certain adjacent property. The 54th section preserving these exceptional privileges, the privilege was, as the Court said, to be claimed when the rate or tax was assessed. Instead, therefore, of the assessors of the rate or tax deriving any assistance from the entry on the valuation list, they would have to make a wholly independent calculation; and as such property as that in question (the appellants are a corporation), and probably a large part of property similarly privileged, would not be property in respect of which the qualifications mentioned in the third head of section 45 would be acquired, the entry would be absolutely valueless for all the purposes contemplated by the Act.

COSTS—CERTIFICATE OF JUDGE.

Hinde v. *Shepherd*, Ex., 20 W. R. 99.

This case is important as drawing a distinction with respect to the plaintiff's right to costs, in cases where his claim is only to damages, and cases where the action is brought to try a right. In the former case, if £10 is not recovered, the matter is according to the decision in *Hatch* v. *Lewis* (10 W. R. 58, 7 H. & N. 367), in the discretion of the judge who tries the cause, and the exercise of that discretion will not be interfered with. In the latter case, if the right is of sufficient magnitude and importance to make the case a fit one for the Superior Court, the plaintiff ought, by the decision in the present case, to have his costs, and the Court will refuse to be bound by the opinion of the judge at *Nisi Prius*.

REVIEWS.

The Rule of the Law of Fixtures; by Archibald BROWN, Esq., Barrister-at-Law. London: Butterworths.

This little work is a reprint, with additions and alterations, of a series of articles, published originally in the *Law Magazine*. Although the work is slight, the author has delved into the old law with a method of his own. The work does not pretend to be exhaustive, but the principal of the recent cases are duly posted up.

By the death of Mr. J. P. Myers, solicitor, of Broughton-in-Furness, Lancashire, his business has devolved on his relative, Mr. H. Myers Meakin, who has been for some time in the office of Mr. N. M. Loggan, solicitor, of Bridport, Mr. Meakin has accordingly left Bridport for Broughton.

Mr. Justice Grove, the newly-appointed Judge of the Court of Common Pleas, has appointed Mr. Simpson to be his "chamber" clerk, and his own clerk (Mr. Bousfield) to be his "body" clerk. Mr. Simpson has held the appointment of chamber clerk to different Judges of the Court.

COURTS.

COURT OF BANKRUPTCY.

(Before Mr. Registrar MURRAY, sitting as Chief Judge.)

Nov. 29, Dec. 6.—*Ex parte Farquhar, Re Guild and Chapman.*

Jurisdiction—Injunction against trustee.

The Court has jurisdiction to restrain an action brought by a trustee under a bankruptcy against a third person in respect of an alleged fraudulent preference.

This was an application by a firm of bankers to restrain the trustee under this bankruptcy from taking any further proceedings in an action brought in relation to an alleged fraudulent preference.

The trustee opposed the application, and his solicitor in his affidavit stated he was advised that the proceedings would be more advantageously conducted in a court of common law than in this Court.

Reed in support of the application.

Herschell for the trustee.

The arguments of counsel are sufficiently stated in the judgment of the Court.

The following cases were cited:—*Re Anderson*, 18 W. R. 715, L. R. 5 Ch. 473; *Macdonald* v. *Purves*; *In re Beveridge*, 19 W. R, 717; *Ex parte Wood, Re Taylor & Rumbold*, 19 W. R. 601: *Ex parte Cohen, Re Sparke*, 20 W. R. 69; *Riches* v. *Owen*, 16 W. R. 963, L. R. 3 Ch. 820; *Martin* v. *Powning*, 17 W. R. 250, L. R. 4 Ch. 356; *Bell* v. *Bird*, 16 W. R. 1165-6, L. R. 6 Eq. 635; *Phillips* v. *Furber*, 18 W. R. 985, L. R. 5 Ch. 746; *Stone* v. *Thomas*, 18 W. R. 385, L. R. 5 Ch. 219.

Mr. Registrar MURRAY.—This was an application by a banking firm to restrain the trustee in this bankruptcy from taking any further proceedings in an action which he has commenced against them in the Court of Exchequer of Pleas in relation to certain matters which are alleged to constitute a fraudulent preference, and the motion goes on to ask that the proceedings may be taken in this Court. In support of the application the provisions of the 72nd section of the Act are mainly relied on, and various cases were referred to by Mr. Reed, many of which occurred under the former statutes of bankruptcy, and which are chiefly valuable as showing the tendency of the Court of Chancery to decline any interference with bankruptcy cases in respect of which there existed a jurisdiction in the Court of Bankruptcy itself to determine the questions in dispute. The policy of the Legislature in passing the Act of 1869 would seem to have been to extend the principles of these decisions, and to create a Court complete and perfect in itself, which should have the power of hearing and determining every question, whether of law, or equity, or fact, which might arise in the course of any bankruptcy. That this is the true construction of the provisions of section 72 is sufficiently clear from the judgment of the late Lord Justice Giffard in the case of *Ex parte Anderson*, so often cited in this Court. That case has no immediate application to the question raised by the present motion, but was referred to as containing a lucid judicial interpretation of the provisions of this and other sections of the Act. But amongst the authorities cited by Mr. Reed, there are two which fortunately relieve me from any doubt as to how I ought to deal with this case: *Macdonald* v. *Purves* in *re Beveridge* (*ubi sup.*), and *Ex parte Cohen re Sparke* (*ubi sup.*). The latter case arose upon the validity of certain bills of sale executed by the bankrupt, and whether the property comprised in them did not pass to the trustee under the bankruptcy. One of the questions in the case was, whether this Court had power to restrain by injunction an action of trover which had been brought by the bills of sale holder against the trustees to recover the property. The County Court judge had granted the injunction, and his decision having been affirmed by the Chief Judge, this case was brought before the Lords Justices and again affirmed by their lordships. [His Honour then read the judgments delivered by their lordships.] Applying these observations to the present case, can it be contended that one rule should prevail where the trustee is defendant, and another where he himself is *dominus litis*, and initiates the proceedings? If any difference exists between the two cases, it seems to me that the observations of the Lords Justices apply with greater force to a case where the proceedings are commenced by the trustee who is a *quasi* officer of this Court, and subject to its supervision in all his dealings with the bankrupt's estate. But it was urged by Mr. Herschell for the trustee, that this injunction could not be granted without wiping out certain provisions of the Act, by which the trustee in a bankruptcy is expressly authorised to bring actions. The clause to which he refers is sub-section 3 of section 25; and it is argued that if the Legislature had intended this Court to be a Court of exclusive jurisdiction in matters of bankruptcy, it would have been quite unnecessary to confer these powers on the trustee, and the provision would be without sense or meaning. But the whole section 25 is governed by the words by which it is prefaced, namely, "Subject to the provisions of this Act it shall be lawful," &c., for the trustee to do certain things, and then it proceeds to define the powers which he may exercise for the purpose of realising and administering the estate, all these powers being subject to the other provisions of the Act, and, therefore, as regards the right of instituting legal proceedings, subject to the provisions of section 72, which confers full jurisdiction on this Court to entertain any question which may arise between the trustee and third parties. As I observed during the argument, a proceeding instituted in this Court for the trial of a question which would, before the Act of 1869, have been tried in a Court of Law, would not less properly come within the definition of "bringing an action," because initiated in this Court, and not elsewhere. But it is really not necessary to discuss this argument on so narrow and technical a ground, because there may be cases still, exceptional as they may turn out to be, in which, on the ground of convenience, it might still be desirable that the trustee should prosecute his claim in a Court of Law, or a Court of Equity, properly so called, instead of in this Court. But those cases would be clearly very exceptional, and if any such were to arise the leave of this Court should be obtained. This is not one of those cases. The order will be in the terms of the notice of motion, and as this is the first case of the kind there will be no costs on either side.

Solicitors for the trustee, *Phelps & Sidgwick*.

Solicitors for Messrs. Farquhar, *Kinsey & Ade*.

COUNTY COURTS.

NEWCASTLE-ON-TYNE.

(Before THOMAS JOSEPH BRADSHAW, Esq., Judge.)

Nov. 24.—*Re Lynch.*

Bankruptcy—Execution—Injunction.

Held that, where an execution on a judgment for more than £50 is issued against a trader, the issue of such execution being itself an act of bankruptcy, the execution will be restrained by the Court.

Ex parte Rocke, Re Hall, 19 *W. R.* 1129, *distinguished*

In this case the following decision was delivered by

Mr. BRADSHAW.—This is an application to make a restraining order perpetual, the effect of which will be to deprive the execution creditors of the benefit of the levy under their execution. The facts are shortly these: William Clarke and Thomas Clarke, being judgment creditors of the debtor, on the 23rd October last issued and lodged with the sheriff of Northumberland a writ of *fi. fa.* for execution against the debtor's goods for a sum exceeding £50. On the 24th October (the following day) the sheriff's officer seized the debtor's goods under the *fi. fa.* On the 26th October (two days after seizure by the sheriff) the debtor presented his petition to this Court to wind up his affairs by liquidation by arrangement. The same day a receiver was appointed, and the registrar of the Court, on the application of the receiver, supported by affidavit, granted an interim order, restraining further proceedings by the plaintiffs (Messrs. Clarke) till the 18th of November inst. On the 3rd of November the sheriff, disregarding the order, proceeded to sell and realise the amount indorsed on the writ of *fi. fa.*, but he retains the amount so realised, subject to the decision of the Court. On the 18th of November a trustee was appointed under the proceedings in liquidation. At first I was inclined to think that this application fell within the principles laid down in *Slater* v. *Pinder* (L. J. N. S. Exch. 140, 19 W. R. 778) and *Ex parte Rocke, Re Hall* (19 W. R. 1129). In the latter case the Lord Chancellor, expressing the judgment of himself and Lord Justice James, decided that if there had been a seizure before the act of Bankruptcy, the creditor was left in possession of all his rights. Lord Justice Mellish was of the same opinion. He is reported to have said the following

words:—"The seizure having been made before the presentation of the petition the goods were in the hands of the sheriff, and the creditors were entitled to have them sold. Was there anything in the Act to take away that right? As the title of the trustee related back to the filing of the petition, his title must *primâ facie* be the same as if, on the day on which the petition was filed, the debtor had made an assignment of all his property to the trustee. His lordship could see nothing in any of the sections which had been referred to which altered that *primâ facie* title." It is not my business to point out what may appear to be anomalies, but to administer the law as it stands. In *Slater* v. *Pinder* the defendant recovered judgment against Allen (whom, from the argument in the case, I assume to have been a trader) for £49 13s. 7d. If Allen had been a trader (as I assume), and if the judgment had happened to be for £50 0s. 6d. instead of £49 13s. 7d. a totally different result would have followed. In *Ex parte Rocke* the defendant Hall was a farmer, and not a trader, and the judgment was for less than £50.

But what are the facts in this application? The debtor is a trader, and the judgment recovered exceeds £50. A petition for liquidation (which is equivalent to an act of bankruptcy: *Ex parte Keys, Re Skinner*, 39 L. J. Bkcy. 28, 18 W. R. 918, *Ex parte Duignan*, 40 L. J. Bkcy, 33, 19 W. R. 1127) is filed. But by section 6, sub-section 5, of the Act, it is enacted that execution issued against the debtor on any legal process for the purpose of obtaining judgment of not less than £50 is, in the case of a trader, an act of bankruptcy. Thus the act of the execution creditor in such a case, *ipso facto*, defeats itself.

Moreover the judgment here being for a sum exceeding £50, and the goods seized and sold being those of a trader, the case is brought within the province of section 87, which provides that the sheriff or high bailiff "shall retain the proceeds of such sale in his hands for a period of 14 days, and upon notice being served upon him within that period of a bankruptcy petition having been presented against such trader shall hold the proceeds of such sale after deducting expenses on trust to pay the same to the trustee." I have already stated that a petition for liquidation is equivalent to a bankruptcy petition. The sheriff having had due notice within the prescribed period served upon him, the title of the trustee is completed. I have therefore no alternative but to grant the application, and to make the restraining order perpetual, and to direct the sheriff to pay to the trustee the proceeds of the sale, after deducting the expenses of realisation

APPOINTMENTS.

Mr. SAMUEL CHANDLER, solicitor, of Basingstoke, Hants, has been appointed clerk to the town justices of Basingstoke, in succession to the late Mr. William Challis. Mr. Chandler was admitted in 1857, and has been a member of the Basingstoke Town Council, but resigned his seat a few weeks ago, in order to compete for the Town Clerkship of Basingstoke, in which he was unsuccessful. He has also been deputy coroner for Hants.

Mr. GEORGE WILLIAM ANDREWS, solicitor, of Sudbury, (firm, Andrews & Canham) in the county of Suffolk, has been elected Mayor of that borough for the ensuing year. Mr. Andrews was admitted in 1825, and holds the office of registrar of the Sudbury County Court.

Mr. GEORGE MARSHALL, solicitor, of East Retford, Notts, has been re-elected Mayor of that borough for the ensuing year. Mr. Marshall was admitted in 1822.

GENERAL CORRESPONDENCE.

JUSTICE FOR CREDITOR AND DEBTOR.

Sir,—Reform is indeed the constant cry, and how frequently it happens that men, seeing some evils in existing things, think by change to produce something which shall be spotless and without blemish. Your correspondent, Mr. Yeatman, by his letter of the 24th ult. seems to have perceived a want in the existing system of recovery of debts, and has indeed by that letter unfolded a startling system of reform. Mr. Marratt, in his answer to Mr. Yeatman's letter, seems to me to write in slightly a cavilling spirit, without entering into the merits of the scheme. If you will allow me, I propose to answer Mr. Yeatman's letter by considering briefly, 1stly, the existing system and its faults; 2ndly, amendment.

And 1stly—The existing system. Taking, first, process in the superior courts, we see the eight days writ and (supposing there is no defence) judgment by default. If the writ is at once served, and no appearance entered, execution can be had in sixteen days; and if it so happen that the writ could always be served, and that the defenceless debtor at once let judgment go by default, I do not see what further the creditor could require. But we know how frequently it is that the tiresome course of obtaining leave to proceed has to be followed, taking time and causing expense, and if the debtor is careful he can delay his creditor from obtaining judgment for a very long time, to say the least. Again, how often it happens that a debtor without defence delays his creditor by entering an appearance and pleading. With regard to expense, the costs indorsed on the writ are only £3 8s., but when leave to proceed has to be obtained, they average, I think, £6 in an ordinary case. This is a serious amount for a creditor to pay when perhaps he may never succeed in getting anything substantial. The faults that rise up vividly before me are—1. Necessity for personal service, or an order to proceed; 2. The delay which a defendant may cause; 3, Expense.

Taking next the County Court procedure, we have a summons issued with a fixed day of return. The average time of return of the summons is three weeks or a month; the summons is served by the officers of the court, and the difficulty of non-service certainly does not very often occur. The expense (without attorney's costs), is one shilling in the pound for the summons, and two shillings in the pound for the hearing fee, up to a certain amount. Thus, say for example, debt £16, the creditor actually has to pay out of his pocket 17s. on taking out the summons, and 32s. for the hearing-fee, together £2 9s., being double the payments in the superior courts, *even when leave to proceed has to be obtained.* Then, besides, the County Court procedure involves frequently the loss of a day to the creditor. The faults which arise before me are: 1. As to the service (though not so strongly as in the superior courts). 2. The delay in the return of the summons. 3. Expenses. 4. The necessity of attendance to prove an undefended debt.

And now to consider, 2ndly, amendments.—Mr. Yeatman says, "The whole question socially seems to resolve itself into this, who should be protected by the law, the debtor or the creditor?" I answer, both, to the proper extent. Mr. Yeatman's scheme is—let the creditor be in a position at any moment to sign judgment without any preliminary proceeding, and let these judgments be negotiable. The latter suggestion, I think, is utterly impracticable, and as it is not necessary I will not touch upon it, and the former I consider would be a grossly unjust measure, as placing far too much power in a man's hands, and besides, I fail to see the utility of it; it is but calling the creditor's invoice by another name, if at any moment he can go into a post-office with an invoice and come out with a "judgment." Is it not merely a name, and, by an imaginary judicial process, putting a creditor in the same, or rather a better, position than a landlord who has the power of distress. Then, again, supposing the "judgment" was wrong (for the price of the goods might be exorbitant, or the defendant might be an infant and the goods not necessaries, or there might be many good defences), you could not reach the creditor by heavy penalties as proposed, and applications would constantly have to be made to set aside "judgments," and I cannot see how any debtor could be prevented from doing this, and thus yet delay his creditor; and, looking at it in this light, I do not think Mr. Yeatman's scheme could injure attorneys as, though they would not be employed in the first instance, yet they must be afterwards in the litigation these "judgments" would so often lead to. In short, I cannot help thinking that, in sympathising with tradesmen, Mr. Yeatman has fallen into the prevailing error of reformers, and gone into an extreme.

Oh, for the happy medium in everything! and I would I could find it in this instance; and I will venture now a few suggestions for amendment founded on the faults I have drawn from the existing systems. In the superior courts (1) let service be by post, and if not returned through dead-letter office by a certain time, and no appearance entered, judgment by default; (2) let it be necessary for every defendant before entering appearance to swear, "that he has a good defence on the merits" (I would not wish for the expense

of an order for leave to enter appearance), and by these amendments the expense must be lessened. In the county courts (1) service by post as in superior courts; (2) a short return duty; (3) less fees; (4) the necessity for appearance being entered by a certain day, *otherwise judgment by default*, without the necessity of the creditor wasting perhaps a day in proving an undefended case.

With these suggestions, made in a spirit of humility, and craving pardon for the length of my letter, I am, &c.,

J. I.

Douglas *v.* Douglas.
Same *v.* Webster.

Sir,—As this case, which appears in your number for Nov. 18th, is one of the most important which has appeared, on the subject of "domicil," for some time, which I have much considered, perhaps you will allow me a little space for some observations, not only on the case itself, but on the general subject. I have elsewhere expressed an opinion, which I find no reason to alter, that the law of domicil, even with the help of the recent Acts of Parliament (24 & 25 Vict. c. 114), and the short Act succeeding it, is in a most unsatisfactory condition, and either requires some bold, broad decisions on principle, to amend it, or some more distinct Act of the Legislature. Put the case of a poor person dying after such a life as that disclosed in *Douglas v. Douglas;* even the small amount of property in such a case in dispute would be immediately dissipated if any legal proceedings were taken; either the parties claiming antagonistically must come to some private arrangement, or the weaker side succumb to the stronger. The very uncertainty of the law incites litigation, and it is no less a loss that large legal expenses come out of a large estate than out of a smaller. There is, no doubt, some difficulty on the question of international law, and it would be very convenient if something definite could be agreed upon; but surely we can legislate as we please with reference to our own subjects, and in the absence of the fact of an English-born person taking some steps to naturalise him or herself in a foreign country, lay down the rule that certain things should constitute him or her a domiciled English subject.

The question presents two aspect—first, with respect to the devolution of the deceased's property; and, secondly, which follows on the first, the duty to be paid on such property—regulated, of course, by the fact of the domicil. The recent Acts deal with nothing but the admission to probate of the party's will, leaving the question of the devolution of the property under or *dehors* the will open—that is, leaving the whole question of domicil undecided. No doubt the proof of the will in this country is a point gained, but still we cannot disregard the state of the foreign law on this branch of jurisprudence. Art. ii., Tit. i., Div. 1, of the Code Napoleon, is to the effect that "a stranger shall enjoy the same civil rights as are or shall be accorded to a Frenchman according to the law of the nation to which such stranger (a foreigner) belongs." The law of France, so far as it depends on decisions, is not in a very clear state, and it is singular that it should be so, considering how very concise and perspicuous the code is. Rogron seems to think that the word "traites" in the article above referred to, applies to an express treaty, not a mere agreement; and I should imagine that, having regard to the amicable relations which have so long existed between the two countries, so far as France is concerned it would be easy to assimilate the law of domicil between the two countries, certainly it would be most desirable. In America, I believe, the law of settlement prevails; domicil being of comparatively recent origin even in this country.

The difficulty is, that where a man has led a desultory life, it is almost impossible to discover his intentions as to remaining in this country or another, for the obvious reason that, in all probability, could he be asked the question, he would not himself be able to give an answer. In this glorious state of uncertainty, surrounding circumstances, and the effects which would flow from a particular domicil being held to have been contracted or renewed, have but too much weight, and those things which should and ought to determine it have comparatively none. Thus, a man may show slight, and perhaps numerous, indications of a particular intention, whereas, by his residence for years in one place, and marriage and birth of children, he has done acts which are of far superior import to any such indications, and yet, as the law now stands, the indications are held sufficient to outweigh these facts, that is, unless the indicia of intention and act go together the intention will predominate over the act.

Now, I think it is well worth the attention of the law lords and law members of the lower house to consider whether something could not be done to give more weight to an act, and to fix some period of residence, or some act of settling in a particular place, as constituting an acquired domicil. Again, let the fact of residence for the purpose of employment, where it extends over a certain period, say seven years, whether the residence be in lodgings or a house owned or rented be sufficient also to create a domicil in that place. These things might be made the subject of very simple enactments, but I consider that the effect of them would be most beneficial. Of course I would not advise that the present law as to purchasing a house, and giving up all other establishments, and expressing a direct intention to live and die in that place, as constituting a domicil, should be interfered with. If certain acts were made sufficient to acquire a domicil, others might be made equally effectual, to enable the party to change it, and acquire another, and there the present law would step in. Anything which involves an almost compulsory and lengthened residence in a particular place ought to constitute that the domicil; that is the principle, and I think the law should set limits to it. Then, with respect to the case before us, the testator was born in London, and at that time, as I think, and have always thought (for I advised upon the case), his father, although by birth a Scotchman, had lost his domicil of origin, and acquired an English one, for he had an appointment under the English Government, which he held for ten years, and married an English lady with an estate, where they resided until his father's death in Scotland. No doubt he then purchased the mansion-house, and no doubt they principally resided there until his death, but, for all that, he might not have lost his acquired English domicil; and at all events, when he purchased the mansion in 1816, it was undeniably English; and I cannot help thinking that when the learned Vice-Chancellor (for whose opinion I have the highest respect) assume the contrary, he did so somewhat hastily. No doubt the residence in Scotland was a long one, but as the law at present stands, *no length of time will, per se, constitute* a domicil, although a party's death may conclude it; it has been nowhere so held. The only thing in favour of the father's domicil of origin reverting, is that such a domicil does revert easier than any other; but in another part of the judgment the Vice-Chancellor expressly says that such last mentioned doctrine is not universally applicable. Then we come to the testator's (William Douglas) own desultory life, and here I think it is one of the strongest cases of an English domicil that can be imagined, even assuming, what I do not assume, that his father was a domiciled Scotchman, after he lost such domicil by English residence, marriage, &c. Up to the time of his marriage and the birth of his children he lived a wandering life, and having property in Scotland, from which he derived an income, he naturally kept it, but, being bound, by one of the strongest possible ties, marriage and birth of children, to England, there he accordingly resided, and there he died. Whatever ideas he might have entertained about the possibility of taking his wife to Scotland, with reference to his former connection with her there is nothing whatever to show any intention to settle in Scotland; on the contrary, all his expressions and all his acts tend the other way. Of course a contrary decision would have had the effect of illegitimatizing the eldest son, but, unfortunately, "The evil that men do lives after them," and "The sins of the fathers are visited upon the children." It cannot be otherwise. I understand that a petition of appeal is lodged, and therefore I am anxious, pending that appeal, to register my views upon the subject, which I do with considerable diffidence, although I have a very strong opinion.

O. S. Round.

Weston-Super-Mare, Nov. 30.

Mr. Swanston, Q.C., who is the son-in-law of the Master of the Rolls, and until now had practised in the Rolls Court has recently transferred his practice to the Court of Vice-Chancellor Bacon.

The Cape Diamond Fields.—A High Court of Justice has been established for the district of the Diamond Fields, with Mr. Advocate Barry as Recorder. Its powers are the same as those of the Supreme Court at Capetown. Mr. Advocate Thompson has been appointed one of the High Commissioners for the government of the Diamond Fields.

OBITUARY.

MR. J. POWELL.

Mr. James Powell, formerly a solicitor of Chichester, died at Kensington on the 27th November, at the age of 73 years. He was admitted in 1821, and for many years held the offices of Coroner, Clerk to the City Justices, and Town Clerk of Chichester. Some years ago he resigned the above-named offices, and was succeeded by his son, Mr. James Powell, jun. On his son's death, in 1870, Mr. Edward Arnold (who was a partner of Mr. James Powell, jun.) was appointed Clerk to the Magistrates and to the Board of Guardians of the Chichester Incorporation, having in the previous year become Town Clerk, on the resignation of his senior partner through failing health.

SOCIETIES AND INSTITUTIONS.

METROPOLITAN AND PROVINCIAL LAW ASSOCIATION.

Some Objections to the Proposed Scheme of Legal Education considered.

The scheme for the establishment of a uniform system of education for both branches of the profession has now fairly entered into the second stage through which all public questions have to pass—that of discussion and contest. At the meetings of the Incorporated Law Society, and in the subsequent debate in the House of Commons, the objections both of our own branch of the profession, and of the Bar, as represented by Mr. Jessel, Q.C., have been frankly and clearly stated.

These objections naturally divide themselves into two classes: those made in the supposed interests of the community at large, and those made in the supposed interests of one or other of the branches into which the legal profession is now divided.

The first objection, made in the supposed interests of the community, is thus stated by Mr. Jessel:—"He believed that the English law was the best possible system for the English people, and, with all its imperfections, that there was no jurisprudence which was so loved and reverenced as was the English law by the English people. It was a law made for the people by the people. He was therefore opposed to the introduction of any doctrinaire school of law which would set up a new and uniform system that would be wholly inapplicable to the requirements and wishes of the English people."

This objection implies that the proposed plan of systematic legal education will, sooner or later, for evil or for good, very powerfully affect every branch of the law as it is. In that view we very cordially agree; and on that point we may confidently take the verdict of the lay public on the merits of the scheme. What we are striving to do *will*, in time, alter the whole form of the law of England; and, because it will do so, and because it is the only way in which an adequate, wise, and systematic reform can be accomplished, that we say that the community at large has even a deeper interest than we have in its success.

But it is said that the alterations, which it is admitted will follow the success of a scheme of legal education, will be the alterations of theorists and doctrinaries, and will render our laws less suited to the wants and requirements of the people than the laws which they (the people) have made for themselves.

Taking the last assertion first, it is impossible for any body, with the slightest knowledge of the feelings and wishes of what Mr. Jessel calls "the people," not to be aware, that if they have made our present system for themselves, they are greatly dissatisfied with the result of their labours. It is equally impossible for anybody with the slightest knowledge of law not to be aware that it is no more likely that a law made by the people will be a good one—in the sense of being as perfect in form as it ought to be—than it is likely that their wills would technically express their intentions if such wills were prepared by themselves.

But in what sense can it be said that our present body of law has been made by the people for the people? As a test may we ask whether that important branch of it, which is coming to the front of all political questions—the law relating to the ownership, settlement, and transfer of land—is a system made by the people for the people? Is it not rather the fact that it is a system whereby, by all sorts of shifts and contrivances, the institutions of the fourteenth century have been modified and evaded, patched and altered, to subserve, in a clumsy and imperfect manner, the different aims and wants of the nineteenth century? The result is that we get something like what we now want, but we get it by the most complicated and roundabout methods. As an illustration, let us glance at the history of the law of entail and settlement. In the year 1290 a feudal parliament (which our opponents now call "the people") pass the statute *De Donis*, making entails perpetual. Two centuries afterwards the Courts of Justice sanction a fiction by means of which the statute was *pro tanto* repealed. After three centuries of practice of this costly means of evasion the legislature provides a simpler mode of doing the same thing, making the irregularity and inconvenience a little less at each step. This is but a type of what has occurred in every department of our law. Now we admit as heartily as the most devoted admirer of our ancient institutions that it was better that the statute *De donis* should be evaded by a fiction, than that it should have remained in full force, and that this roundabout mode of reform was once the only way in which it was possible it could be accomplished at all. What we do object to is, that when we are all agreed on a modified instead of an absolute system of entail, English lawyers should be compelled to digest the enormous mass of merely historical learning which is involved in this roundabout method of having one statute providing for the absolute and unalterable entail of estates, and another set of contrivances (also ultimately sanctioned by statute) providing for alteration of it. Is not such a proceeding—and our law is full of them—very much like the old story of the inhabitants of a certain village (not in England of course) who were accustomed to take their produce to market in panniers, but only filled one of the two panniers with produce, and put an equal quantity of stones in the other to balance it? The story goes on to state that some *doctrinaire* called a meeting on the village green in support of a scheme for doing away with the stones, and putting an equal quantity of produce into the two panniers, but he was told that with all the imperfections that was the best possible system for them, and they were not going to abandon it for any new and uniform system inapplicable to their wishes and requirements.

When we come to inquire for that which is called, with a fine irony, the present "best possible system" of law for the English people, we find that it does not exist at all in any definite tangible shape—that its fragments are scattered in, and are to be collected from, about one hundred volumes of statutes and eight hundred volumes of reports—that neither the reports nor the statutes are intelligible to a student without the assistance of at least a moderate library of text books—that it is admitted that anything like a thorough and complete mastery of all the details of this heterogeneous mass is impossible for any one man, however gifted—that the practitioners of its mysteries are divided into two classes, the superior and inferior—that only the inferior branch of practitioners are compelled to know a little something of all its branches, or have to undergo any test of what they do know—that the superior practitioners are all specialists, each confining himself to some corner of the vast field, and not being expected to know anything of any other, nor is any care taken or test applied to ascertain whether he knows anything at all even of the special branch to which he proposes to apply himself! This wonderful confusion is called the best possible system, and we are told that if we doctrinaires set up a new and uniform system, it will be inapplicable to the requirements and wishes of the English people! Our answer is that the state of our law does not now represent the requirements and wishes of the people, with anything like the clearness, simplicity and accuracy it might do, and that the operation of a thorough system of legal education would produce two good effects. It would facilitate the acquirement of real juridicial knowledge, and it would in time simplify and improve our jurisprudence. The first of these objects may be considered only to concern the profession, although that is not so. The second is the one in which the interest of the community is the keenest, and on that point they should understand the nature of the reason of the complexity and uncertainty in both of the two great branches into which our laws are divided, viz., statute law and case law.

* A paper read at the meeting of the Metropolitan and Provincial Law Association held at Newcastle-on-Tyne on Oct. 10. By Mr. G. J. Johnson, of Birmingham.

On the subject of statute law, Mr. Jessel appears to have felt that his best possible system was not quite so perfect as it might be, and with the art of an accomplished advocate he just mentions and extenuates the ugly fact that when the English people do by themselves (*i. e.*, their legislators) "make a law for themselves," it is generally done in such a way as to mystify and confound the very judges who have to interpret it. In justice to those learned persons, it must be admitted that they honestly and laboriously endeavour to find out the meaning of the Legislature, and very often pronounce it impossible to discover what that meaning is. Mr. Jessel suggests that they should be a little more liberal in their interpretation of the language of statutes, and all would go well. But the real difficulty lies deeper than that—it lies in the fact that we have in England no precise technical language, and we have no precise technical language because we have no systematic legal education. As the superior branch of the profession might think an attorney is out of his depth in broaching a doctrinaire theory on the construction of statutes, I prefer, on this point, to quote two passages from an essay by Professor Maine, in the Cambridge Essays for 1856. Speaking of the statute law, he says—"Surely the state of this department of our jurisprudence, coupled with the facts of its vastness and its ever increasing importance, makes the reform of our legal education a matter of the most pressing and immediate urgency. It is now almost a commonplace among us, that English lawyers, though matchless in their familiar field of case law, are quite unequal to grapple with express enactments; but the profession speaks of the imperfection with levity and without shame, because the fault is supposed to lie with the Legislature. Unquestionably our legislation does occasionally fall short of the highest standard in respect of lucidity, terseness, and orderly arrangement; but even though the mission be true in all its tenor, it appears merely to shift the reproach a single step, for nobody doubts that our statutes are framed by lawyers, and are in the long run the fruit of whatever capacity for orderly disposition and whatever power of comprehensive expression are to be found among the bar. The statute book is no credit to the Legistature: but it is, at the same time, the *opprobrium jurisperitorum*. Not, indeed, that its condition is attributable to individual framers of statutes, who frequently work marvels, considering the circumstances in which they are placed. It may, with much greater justice, be explained by the special mental habits of the English bar in general; and it is, in fact, one of the many consequences of forgetting the *great truth, that to secure the consistency and cohesion of a body of law, a uniform system of legal education is as necessary as a common understanding among the judges, or a free interchange of precedents among the courts.*"

And again he writes—

"The truth is, that both the difficulty of drafting statutes and the confusion caused by amending them are infinitely greater than they need be, and infinitely greater than they would be *if English practitioners were subjected to any system of legal education in which proper attention was paid to the dialect of legislation and law. This branch of study may be described, though the comparison cannot from the nature of the case be taken strictly, as having for its object to bring all language for legal purposes to the condition of algebraic symbols, and therefore to produce uniformity of method in its employment, and identity of inference in its interpretation.* In practice, of course, nothing more than an approximation to these results can be obtained, *but it is likely that a general educational machinery, even though comparatively inefficient*, would add materially to the extent and importance of that portion of legislative phraseology which is common stock."

In the different schemes of Mr. Jessel and Professor Maine for dealing with the admitted defects of our statute law we have an illustration of the difference between the "hand to mouth" remedies which have made our law the chaos that it is, and the remedy which goes to the root of the mischief, but which remedy is not possible except by the aid of a profession all thoroughly well grounded in jurisprudence as well as technical law.

The other great department of our law—case law, which is growing with such frightful rapidity that it has long ago surpassed the powers of the strongest memory, and almost the most elaborate machinery of "noting up," can only be dealt with in the same way. With a really scientifically educated profession we shall be able to digest and combine the materials which now lie scattered in fragments through countless volumes of reports, into rules and principles. *At present there is no machinery in our law for separating results from processes, or disentangling the rule to be deduced from a string of cases, from the cases themselves.* Each judge, text writer, or practitioner has to do it for himself, without the invaluable assistance which what our opponents are pleased to call a doctrinaire system would give them.

The difference between us and our opponents is this: we are both agreed that something must be done to stop, or to grapple with, the frightful and increasing accumulation of case law. They have no remedy to offer and nothing to say, except that the jurisprudence of England is loved and reverenced by the people. We have a distinct remedy, not an empirical one, or one which we suppose will produce immediate effects, but one which has been tried; for it was the method by which the Roman lawyers got rid of the very difficulty which is now affecting us. The remedy is that which is pointed out by Mr. Maine as a cure for the evils in the other branch of statute law—the establishment of a thorough system of legal education.

2. The objections to the proposed scheme made in the supposed interests of one or other branch of the legal profession appear to be these:—

First, it is said that the bar have hitherto done very well without examination, and that it is unnecessary, because they pass a competitive examination every day in presence of the whole profession, and that only those who are fit to succeed do succeed. If this argument is worth anything at all it must go to the extent of abolishing all restrictions whatever to entering either branch of the profession. Let everybody who has nothing better to do put on a wig and gown or take an office and dub himself attorney-at-law. If he is fitted by natural ability, or acquirements, or both, for that branch of the profession he has chosen, he will succeed; if not, he will fail. It may be that there will be some two or three clients who will be the victims of the experiment and who will be ruined in ascertaining his incompetence, but this principle of daily "competitive examination" will be fairly carried out because it will be then open to all the world, and not as now confined to the gentlemen who have paid certain fees and eaten certain dinners. Is it not as clear as anything can be that if the possession of *any* qualification for entrance into the legal profession is required, in the interest of the public it ought to be a qualification of fitness implied by the proved possession of some amount of knowledge. It also follows that if, as has been already shown, it is the interest of the community that all persons concerned in the administration of the law should have been instructed in what law ought to be, as well as what it is, that this should form a necessary part of their education. The position now taken up by the advocates of things as they are is utterly indefensible. Either all restrictions on entrance into the profession ought to be abolished and absolute "free trade" established, or the restrictions and qualifications ought to be such, and such only, as will be beneficial both to the profession and the public.

But it is again objected that any scheme of scientific legal education is an idle dream, that there is no such thing, and that a law school conducted on that assumption might turn out students crammed with information about *nexum* and *mancipatio*, but that they would be utterly incapable, if barristers, of holding a brief in a rate appeal, or, if attorneys, of endorsing a writ, and that they would not succeed nearly so well as the practitioners educated in the present system. It may be conceded that at present there is no such thing as a science of English law—and as long as we go on under "the best possible system" there never will be. There is, however, an existing science of jurisprudence, and when we have got the profession generally well grounded in the elements of that, then, and not until then, will a scientific study of English law be possible. No one, and least of all the advocates of an improved system of legal education, would deny that the present "system," as it is grandly called, does give us most able advocates in one branch of the profession and sagacious and skilful practitioners in the other. But the public have a right to something more than this. The reform and simplification of our law is an imperative necessity, and at the same time an utter impossibility except with the assistance and under the direction of the profession itself, and by that I mean of the whole profession. For this two qualifications are required—theoretical knowledge and practical experience. Speaking generally it may be said that the *un*successful men have no practical experience, and that the successful ones

have nothing else. The time of the latter is so taken up with dealing with the exigencies of each day's practice, as it comes, that they have not the time, even if they had the inclination, to do anything else. It is precisely because all the ordinary rewards of professional success are given, and rightly given, to personal superiority in clearness of apprehension, tact, temper, or eloquence, or favourable circumstances (the effects of which begin and end with the fortunate possessor himself), that it is requisite to compel the acquirement of that theoretical learning in which the public has so deep an interest, and which, if not acquired before the active duties of professional life begin, will never be got afterwards. The demand for "sound practical" talent is so great and its rewards are so visible and immediate, that the supply is sure to be adequate, and if endorsing writs or filling up summons for time to answer, appear to be the shortest ways to fame and fortune there is no fear but that the most brilliant student will soon learn to do those things as well as if he knew nothing else.

The fact is that it will not be long before we shall awaken to a sense of the utter folly of the "sound practical" cant in jurisprudence as we have already been partially awakened to it in other departments of human life. In the last fifty years we have been sneering at German professors, ideologists and doctrinaires, and comforting ourselves with mutual assurances that we were a practical people. We have suddenly found out that these despised dreamers and theorists have been assiduously studying the arts and sciences both of peace and war in a scientific manner, and have added to a practical knowledge and industry equal to our own, a scientific precision and skill to which we have no pretension.

Another objection is that the proposed School of Law can have no other effect than the amalgamation of the two branches of the profession, and that because such an amalgamation is deemed undesirable by the bar generally, and by many of those whose position stands highest in our own branch, therefore the scheme of legal education is undesirable.

I will only deal with this objection from the point of view of our own branch of the profession. I suppose the most ardent supporter of the separation of barrister and attorney—those who believe it is part of the solar system, or at least one of the implied bases of the English constitution—do not wish to see the status of our branch of the profession lowered, either absolutely or relatively to that of the bar. It is admitted that the two branches have approximated in position and influence ever since the time when a certain test of professional knowledge and fitness was required for attorneys and solicitors. Now if a thorough system of legal education is established in which we are *not* allowed to participate; then to the difference of office and function which distinguishes the bar will be added the far more important distinctions of education and acquirement, and the status of the inferior branch of the profession must be permanently lowered. Even admitting for the sake of the argument, that the distinction between barrister and attorney must be eternal, it can do the bar no harm that every attorney shall be made as accomplished a lawyer as possible, but it will do our branch of the profession, and also the community at large, an irreparable injury if we are prevented from getting the best legal education that the country can give. If the separation of the two branches is to continue, the community have, if possible, a deeper interest in the honour, integrity, acquirements and intelligence of our branch of the profession than of the bar, because it is we who conduct all that enormous part of legal business which never requires or ripens into actual litigation. If on the contrary the separation of the two branches of the profession is temporary in its nature, and if what is sometimes called the "Americanizing of our institutions" should necessitate the abolition of the distinction, it is hard to say whether the bar, or the attorneys, or the public, have the greatest interest in providently providing that those who are to exercise the same functions shall receive one and the same, and that the very best, legal education which can be obtained.

Then it is objected that the proposed Law School will give all its instruction by means of lectures, and that lectures are useless, or if not useless, only useful to students of inferior capacity and attainments. Now it may be admitted that if a lecturer simply composes a legal essay and sits down and reads it and then goes away, that such a style of lecturing is neither interesting nor useful. But if a lecturer has the necessary qualifications of (1) a thorough knowledge of his subject, so that he can teach extempore and deal with his class as Sir James Scarlett is said to have done with his juries—talk at them until he saw the most stupid amongst them begin to understand; (2) a natural faculty for making things clear which disdains no homeliness of illustration which will really serve his purpose, but is fertile in expedients for explanation of difficulties; and (3), and most important of all, an earnestness of interest which he can communicate to his pupils (for nothing is so contagious as real enthusiasm), he can render inestimable service to students and save much time and attention which would be misdirected or wasted.

Consider for a moment these two propositions. First, that English law is a trackless chaos, which nobody has explored thoroughly or is likely to be able to master until our statutes are all revised, our reports digested, and several other fine things done. This proposition is as devoutly believed in by our opponents as by us. The second is, that the state of affairs being thus, each student had better be left to find his way about as he best can with the assitance only of the very excellent text books which now exist. We say this is a clear *non sequitur*. No one appreciates more then I do the exceeding merit of text books of the stamp of Joshua Williams's treatises or Mr. F. O. Haynes' lectures on Equity; but if such books were as plentiful as they are scarce, there would still be a place for the living teacher who can do three things which the dumb book cannot. He can communicate the earnestness and enthusiasm of his own personality. He can excite the mind of his students and force himself on their attention, whereas a book can only give what the reader chooses to take; and, thirdly, he can suffer or procure himself to be interrogated and cross-examined so as to be certain that his students have really comprehended what he has taught them.

The only remaining objection which it is worth while to notice is that the legal education of barristers and attorneys must be kept separate, because on the average, students for the bar are three years older than articled clerks when they enter on their studies, and that any system applicable to both would be a disadvantage to students of the bar as forcing them to attend the same classes as articled clerks, their inferiors in years and in learning. But why is it that articled clerks are on the average younger than the students for the bar? Simply because until lately their learning must have continued for *five* years instead of three, and that rule is only relaxed now in favour of the possessors of a university degree, and because in the present system of examination no man who is not articled before he is twenty-one, unless he be a university graduate, can obtain one of the few honorary distinctions open to him. Only establish a system which will open up to articled clerks the advantages of a better legal training, and give a premium to age and previous scholarly training, instead of the reverse, and I am confident that men quite as well fitted to receive and profit by the instruction given, will enter the Law School, intending to be attorneys and solicitors, as intend to go to the bar. I am even more confident that before the Law School has been in operation ten years its benefits will be so appreciated that every man intending to enter our branch of the profession will feel he is committing a grave mistake, and one which will cripple him in all his future career if he neglects to avail himself of every advantage which it will open to him. Let the standard of qualification be fixed where it will, if it be made compulsory it will be attained, and as for the objection that students for the bar fresh from the university would require a different sort of training from persons being or intending to be articled clerks, one would like to inquire if a conveyancer and special pleader has six pupils entering his chambers, three to be barristers and three articled clerks, he would give them a different set of books to read, feeding the students for the bar with the strong meat of Coke on Littleton as an elementary work, and confining the articled clerks to the milk for babes of Williams' Real and Personal Property.

But, as has been argued before, this is not a question merely between the Bar and the attorneys; the public have a right to be consulted in the matter. Legal education is not required only, or principally, because it would benefit either branch of the profession, but because it is a pressing want of the body politic. To satisfy the needs of the community is it not enough that the four thousand members of the bar who conduct the forensic and litigious part of our legal business should be jurists, as well as lawyers; and the ten thousand attorneys and solicitors who conduct the whole non-litigious legal business, and on whose skill and integrity so much of the right conduct of the other business depends,

should be condemned to a narrow and more technical training which will just qualify them to endorse a writ, and state a case for counsel's opinion. Bearing in mind all the peculiarities of legal practice in England, it may be said, without any great exaggeration of metaphor, that the attorneys and solicitors' offices are our real tribunals of "first instance." From them most persons derive whatever small knowledge they have of our legal institutions. To imbue the attorneys and solicitors of England by systematic legal education with a knowledge of principles, as well as a familiarity with technicalities and the routine of legal procedure, is not only the best means of promoting the integrity and honour of our branch of the profession—it is not only the best means our clients have of securing able and skilful advisers—but it is the necessary instrument and preparation for the permanent improvement and scientific re-organisation of our jurisprudence.

LAW ASSOCIATION FOR THE BENEFIT OF WIDOWS AND FAMILIES OF ATTORNEYS, SOLICITORS, AND PROCTORS IN THE METROPOLIS AND VICINITY.

The usual monthly meeting of the directors was held at the Hall of the Incorporated Law Society, Chancery-lane, on Thursday, the 7th inst., the following being present—viz., Mr. Desborough (chairman), Mr. Beaumont, Mr. Burges, Mr. Carpenter, Mr. Collisson, Mr. A. Drew, Mr. Gresham, Mr. Hedger, Mr. Kelly, Mr. Nisbett, Mr. Sawtell, Mr. S. Smith, Mr. Steward, Mr. Styan, Mr. Whyte, and Mr. Boodle (secretary), when a grant of £50 was made to the widow of a member, grants amounting to £40 were made to four widows and an aged daughter of non-members, three new members were elected, and the ordinary business was transacted.

LAW STUDENTS' DEBATING SOCIETY.

At the Law Institution, on Tuesday last, Mr. Percy Gordon (for Mr. S. Woolf) in the chair, the question discussed was No. 485 Legal, "A. assigned to B. a lease for three lives, and for the lives of the survivors and survivor, and covenants that the lease is a subsisting lease for the lives of the three *cestuis que vie*, and the survivors and survivor of them." Is the fact of one of the *cestuis que vie* being dead at the date of this covenant a breach of it? *Coates and Another* v. *Collins* (L. R. 6 Q. B. 469). The question was decided in the negative by a large majority. The society recorded its deep regret at the death of Mr. John Peachey, who had for many years prior to his decease been a member of the society.

ARTICLED CLERKS' SOCIETY.

A meeting of this society was held on Wednesday, the 13th December instant, Mr. Dendy in the chair. Mr. Arnold opened (in the negative) the subject for the evening's debate—viz., "That the Contagious Diseases Act, 1866 and 1869 (29 & 30 Vict. c. 35, and 32 & 33 Vict. c. 96), should be repealed." The motion was lost *nem. con.*

LEGAL EDUCATION.

(From the *Manchester Guardian.*)

A number of gentlemen interested in legal education assembled last week in the library of Owens College for the purpose of meeting Professor Bryce and the law lecturers.—Mr. R. C. CHRISTIE presided, and in opening the proceedings said when he had the honour of presiding there some few weeks since, at the opening lecture of Professor Bryce, he stated that the authorities of the College hoped that very soon an opportunity would be given to the lecturers on law of making themselves acquainted personally with the members of the profession in Manchester, as well as with the students at the lectures. That was one object of the present meeting; and a second object was that there should be obtained from those present, members of the legal profession in Manchester, members of the bar as well as solicitors, an expression of their interest and co-operation. It was extremely gratifying to see there that evening, to express their approval of the lectures which had been instituted with the view to some improvement in legal education, gentlemen who filled eminent judicial offices in Manchester, and members of the bar and solicitors. It was also gratifying to see that so many articled clerks and other young men had entered for the law lectures in connection with the College. The number of students enrolled was fifty-two, of whom a considerable proportion must be articled clerks in Manchester; and it certainly showed a considerable increase in the number that had hitherto attended the lectures on law in that college. Without the co-operation of the profession in Manchester, it would be quite impossible that the council of the College could hope for any great success. That co-operation the Council had received, and most gratefully acknowledged. Had it not been for the assistance of the Manchester Incorporated Law Society, it would have been impossible to enlarge the course of lectures hitherto given at the College to the extent to which they had been enlarged; and the Council must also acknowledge the sympathy it had received from the Liverpool Incorporated Law Society. He could not forget, however, that to Owens College was due the merit, if merit it was, of the establishment of those law lectures. It was now fifteen years since a professorship of law had been established in connection with that institution, and though it might be that the lectures delivered for a great many years had not any extraordinary merit, or did not contribute very largely to the promotion of legal education in Manchester, still it must be admitted that an effort had been made to show that there was something besides mere drudgery, mere practice, in the study of law, and that, like other subjects, it could be studied in a scientific manner. In 1867 he (the Chairman) had associated with himself in those lectures Professor Bryce and Mr. Thompson. That the number of lectures was not further increased was owing to the financial position of Owens College. The *res angusta domi* had pressed on them, and did so still. Still, the College would have during the present session four courses of lectures,—courses more important and longer than hitherto,—with several additional gentlemen of very great reputation and abilities to deliver them. This, of course, was not supposed to be enough, or all that the College might effect. It was hoped in time, if the necessary funds were provided, to increase further those courses of lectures. It was hoped that when the College was removed to the new building, and had taken that position which it was hoped it would attain, the law school would become a very important feature in it. He did not say that such a law school would be the first in England; the great school of law in England must necessarily be in London. But it might be hoped that there might be established in Manchester the second law school of England. From what he had said his hearers would be aware that the objections which the University of London raised, or was understood to raise, to the scheme of legal education as proposed by the association for the promotion of that object, had no place in Owens College; and as regarded himself individually, it was with great regret that he found that the University of London was supposed to be opposed to the scheme. It was with still more regret that he found that the eminent lawyer who had just become Solicitor-General should have taken upon himself to head the opposition to the Association. The objection of the University of London, and the objection which it was understood the Solicitor-General also held, was that a single society for promoting a single subject of study ought not to have the power of conferring degrees. But Sir G. Bowyer, in an excellent and sensible letter published in the *Times*, pointed out, as a matter of fact, that the Inns of Court did confer degrees. Neither the Association for Promoting the Study of Law nor the Inns of Court aspired to confer the degree of doctor of law or that of doctor of civil law, which were now conferred by the universities, and neither of which had anything to do with the present practice of the law.

Mr. QUAIN, Q.C. in response to a call by the Chairman, explained the object of the movement which had begun in London upon the subject of legal education. He said it appeared to him and to others to be a most extraordinary reproach to such a country as ours that up to the present time we had never been able to establish here a systematic scientific study of the law. Had we a legal literature worthy of the country? Had we anything approaching to it? When he saw how the medical profession in England was perfectly *au courant* with everything going on on the Continent in that profession, and when he found that it had established a society to translate into English every great medical work, he felt thoroughly humiliated when he looked at the condition of his own profession. He found also that the

Church of England and Nonconformist clergy in this country were thoroughly acquainted with all that went on in regard to theology abroad. And yet when he turned to his own profession, he found that not one man in twenty was acquainted with the great continental law writers. He hoped the time was at last come when that reproach to the legal profession of England would be remedied. Any cause to which the support of Manchester was gained was very likely to succeed; and he wished, therefore, to explain what the Association for the Promotion of Legal Knowledge desired, and what it hoped to attain. The Association had two objects, the first to establish a school of law; and then, as an appendix to that, some public examination, conducted by competent and trustworthy examiners, as a necessary condition of admission to both branches of the legal profession. He was not one of those who thought that examination was everything. On the contrary, if he had to make a choice between the two, he should prefer training in a school of law to any amount of examination; but they were not driven to the alternative, because the Association hoped to establish both. The great advantage which was looked for from the establishment of a school of law was the placing of the study of law upon a really scientific basis. One of the great difficulties in the way of the Association was the present system of English university education. England was the only country in the world where a man did not go to the university to learn his profession; and a great difficulty in the way of carrying out the object of the Association was the English system of keeping young men at Greek, and Latin, and mathematics from the time they went to the university, at the age of eighteen years, up to the age of twenty-two. The result of that was that a young man, having undergone an enormous amount of study and examination at the university, went up to London tired and jaded to study law; and, under such circumstances, how could he be expected to begin a new course of study of law, and to undergo fresh examinations? Another object in the establishment of a school of law was to create a legal literature. A legal literature could not be had without permanent teachers—not teachers like those of the Inns of Court, who took up the occupation until they could get something better, but good permanent teachers, such as could only be got by men being induced to engage permanently in teaching, and by their being well paid.

Professor BRYCE introduced Messrs. Dicey and Holland, two of the gentlemen engaged to deliver the law lectures at the College during the present session, and both those gentlemen briefly addressed the meeting.

A number of other legal gentlemen, including Mr. J. A. RUSSELL, Q.C., Judge of the Manchester County Court, and Professor BRYCE, also addressed the meeting in approbation of the principle of a systematic and scientific legal education; after which the preceedings terminated.

AN AMERICAN JOURNAL ON TRIAL BY JURY IN CIVIL ACTIONS.

We have, from time to time, expressed our conviction that in civil actions a jury is not the proper body to determine the rights of litigants. At the best, especially under the forms of pleading in vogue in most of the States, where all the facts incident to the matter at issue are to be determined, the conclusion of twelve men chosen at random, some of them ignorant, and all inexperienced, is uncertain, and as liable to be wrong as right. But besides this, as is well known, in certain kinds of actions juries are uniformly prejudiced, and the result can be told as well before verdict as afterward. Suits against railways for personal injury, and suits by women for breach of promise to marry, so notoriously are decided unfairly, that defendants very frequently pay large sums to settle unjust claims rather than to risk a trial where they know they can expect neither mercy nor justice, and where the damages which will, without doubt, be assessed against them will not be measured by the injury supposed to have been received by the plaintiff, but by their ability to pay. The verdict rendered in the case of *Craig* v. *Sprague*, a few years ago in Chicago, was so outrageous that the attorneys for the plaintiff at once offered to remit a very large proportion of the amount. The juries of Illinois seem to be given to this way of doing business, to a degree that has brought down several merited rebukes from the court of last resort in that State. In the case of *Illinois Cent. R. R.* v. *Welch*, 52 Ill. 183, the defendant had received an injury while in the employ of the railroad company, and for which he was, under the circumstances, entitled to some compensation. He had, however, before the commencement of the suit, and after being fully aware of the injury done, for a consideration, executed a release, under seal, of all claim against the company. Nevertheless, on the trial, the jury gave him a verdict for 10,000 dols. In delivering the opinion of the court, giving judgment of reversal, Mr. Justice Lawrence says:

"It has become a matter of public notoriety, and is evidenced by many of the records brought into this court, that juries very generally assess an amount of damages against railway corporations which, in similar cases between individuals, would be considered unjust in the extreme. It is lamentable that the popular prejudice against these corporations should be so powerful as to taint the administration of justice, but we cannot close our eyes to the fact. When this becomes apparent the courts must interfere. However natural this prejudice, or however well deserved, it cannot be permitted to find expression in unjust verdicts. A railway company is entitled to, and must receive, the same measure of justice that is meted out in a suit between John Doe and Richard Roe. Juries must be taught, if possible, that when they enter the jury box they are entering upon a duty so high and solemn that they must shrink from the influence of prejudice or passion as they would shrink from crime. Doubtless the twelve men who composed this jury were, individually, honest men, but we cannot believe they had a proper sense of their duty and responsibility as jurors. There was in this case no malice or oppression on the part of the company, and therefore no room for vindictive damages. The injury to the plaintiff was merely an accident, resulting, it is true, from the carelessness of the company, but still an accident, in the sense that it was unintentional. The injury, although severe, is not one that wholly disables the plaintiff. He testifies that he has since been learning the trade of a printer. His wages as a brakesman were forty dollars per month, amounting to four hundred and eighty dollars per annum. The annual income he would derive from 10,000 dollars, the amount of this verdict, would be, at the ordinary rate of interest in this State, one thousand dollars. The wages he was receiving would not amount to this verdict in twenty years.

"In one sense, it is true, a pecuniary value cannot be placed upon an arm. But, inasmuch as the law can give only a pecuniary compensation, and as the plaintiff seeks that by his suit we are obliged to take a practical and almost unfeeling view of this question; and when the injury is one that will still leave the plaintiff able to earn as much, in many occupations, as he was earning before the accident, we must hold a verdict to be unreasonable which gives him at once a sum larger than the great majority of the community earn by a long life of toil, and the interest of which would amount to more than twice his wages. When we consider this, and remember that such verdicts for injuries inflicted without design or malice are never rendered in suits between individuals, and that the statute limits the damages for the loss of life to 5,000 dols. we think it our duty to pronounce the damages in this case excessive."

In another case, *Walker* v. *Martin*, 52 Ill. 347, two wealthy persons had caused the arrest of a man of somewhat doubtful reputation. There was evidence that the arrest was malicious, and it was not proved to be justifiable. The only injury the arrested person received was that resulting from a brief detention, and such as was, possibly, inflicted upon his not wholly certain good name. Yet the jury, knowing the plaintiff to be poor and the defendants rich, gave it as their candid opinion that it would require the sum of 25,000 dols. to balance matters between the parties. Concerning this action, Mr. Chief Justice Breese remarks:—

"This verdict is unprecedented in the annals of judicial proceedings. It bears upon its face the stamp of prejudice, partiality, and oppression, and ought not to remain on our records."

"Such verdicts as this is outrage that sense of justice which has a lodgment in every well-regulated mind, and, if sustained by this court, could not but tend to increase that tide of opposition to the jury system which is now rising and advancing in more than one State in this Union. If sustained, juries will be regarded as instruments of oppression, rather than a bulwark of our liberties. It may

not be that either of the ancient ordeals—that of the Anglo-Saxon, of red-hot iron and boiling water, or that of the more chivalric Norman, by battle—will be revived; yet, there is no small danger the institution will sink into contempt, to end at last in its utter overthrow. This is said in view of the material of which juries are composed in modern times; but however composed, it is quite time they should understand they do not possess despotic power. The maxim, '*sic juber, sic volo, stat voluntas pro ratione,*' has no place in jury trials. It is the maxim of the despot, whose own unbridled will is the law for him, and for all within his power."

In feudal times, when the English people were struggling to maintain their rights against the usurpations of the hierarchy and nobility, when proceedings before law courts were principally of a criminal nature, and whether criminal or civil, always involved personal liberty, the right of trial by jury was essential to the protection of the individual. Then, too, the matters coming before the courts involved very little law and few facts, and the men filling the jury box were, we are sorry to say, far more intelligent and educated, in proportion to the rest of the community, than they now are.

To-day, under changed conditions, we find a jury trial so cumbrous, dilatory, and uncertain, that the more confident a party is that he has right on his side the less willing he is to submit his cause to the determination of that time-honoured tribunal. In fact, the decision of a jury, except in the class of cases we have named, possesses so many elements of chance that speculative persons very frequently, after all the evidence is in, lay wagers upon the result, basing their opinions, not upon the effect of the testimony given, but upon their personal knowledge of the prejudices of individual jurymen, or the improper outside influence which has been brought to bear to affect the verdict.

In criminal actions we should by all means retain the present system, as there the contingent harm is more than balanced by the certain good. In civil actions, however, it is worthy of a consideration whether the time for a change has not already arrived.—*Albany Law Journal.*

HANDCUFFING PRISONERS AT THE BAR.

The *Pacific Law Reporter* publishes the following judgment given by the Supreme Court of California, in a case of *The People* v. *Harrington et al.* The topic is one which was a good deal discussed on this side of the water during the Fenian prosecutions at Manchester in 1867 (*vide* 11 S. J. 1063). To the English authorities cited in the judgment may be added *Griffin* v. *Coleman* (4 H. & N. 265.) Judgment.—The defendants were indicted, tried, and convicted of the crime of robbery, and appeal from the judgment of the Court rendered against them upon the verdict. The only point now urged by the defendants against the validity of the judgment is presented by the following bill of exceptions:—"On June 22, 1871, a jury was called, empannelled and sworn in said cause to try said cause—the defendants at the time being in Court and in irons. The counsel for defendants asked that the irons be removed from the limbs of defendants while they were being tried. The Court refused to order the same to be done, and ruled and decided that said defendants should be tried while in irons—no circumstances or facts being shown to the Court why a different rule should be enforced in this cause than any other—the Court being of the opinion that no rights of defendants were violated by being tried in irons without their consent, to which ruling and decision of the Court the defendants, by counsel, then and there excepted."

Appellants insist that by the action of the Court in refusing, upon their motion, to direct the manacles which were upon their limbs to be removed, while they were in Court upon trial, and compelling them to be tried while their limbs were shackled with irons, without any apparent or pretended necessity therefore, they were deprived of a substantial legal right, and that the judgment, for that reason, should be reversed. In answer, the Attorney-General claims that this action of the Court is no part of the trial of the case, and hence cannot be reviewed on appeal.

I think there can be no question but that any action of the Court during the progress of a trial for felony, which deprives the defendant of a substantial legal right in the premises, or to any extent to his prejudice withholds or abridges a substantial legal or constitutional privilege of a defendant, and by him claimed on the trial, is a proper subject matter of review by this Court on appeal (*People* v. *Keenan*, 13 Cal. 584). The question, then, is whether a prisoner placed upon his trial for a felony, can as a legal or constitutional right, demand that during his trial, while before the Court and jury, his limbs should not be manacled, or that he should not be *in vinculis* during his trial, there being no pretence of necessity for such restraint to secure his continued presence in court.

It has ever been the rule at common law that a prisoner brought into the presence of a Court for trial upon his plea of not guilty to an indictment for any offence, was entitled to appear free of all manner of shackles or bonds; and prior to 1722, when a prisoner was arraigned or appeared at the bar of a court to plead, he was presented without manacles or bonds unless there was evident danger of his escape.—2 Hale's Pleas of the Crown, 219; 4 Black. Com. 322; *Layer's case*, 6 State Trials, 4th ed., by Hargrave, pp. 230, 231, 244, 245; *Waite's case*, 1 Leach's cases in Crown Law, 36.

The Legislature of this State, at its first session, declared that "the common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States or the Constitution or laws of the State of California, shall be the rule of decision in all the Courts of this State" (Stats. of 1850, p. 219); and by section 13 of our Criminal Practice Act it is declared that "no person shall be compelled in a criminal action to be a witness against himself, nor shall a person charged with a public offence be subjected before conviction to any more restraint than is necessary for his detention to answer the charge. The same statute also requires that at every stage of a prosecution for felony the defendant shall personally be present in Court (sections 259, 320, 415, and 449 of Cr. Pr. Act).

By section 8, art. 1 of our State Constitution, it is declared that, "in any trial in any Court whatever, the party accused shall be allowed to appear and defend in person and with counsel;" and further, by the Act of April 2, 1866, in all proceedings against persons charged with the commission of crime or offence, the person so charged is granted the privilege, on request, of testifying in his own behalf as a competent witness (stats. of 1865-6, p. 865).

A prisoner upon his trial in Court is in the custody of the law and under the immediate control of and subject to the orders of such Court. Should the Court refuse to allow a prisoner on trial for felony to manage and control in person his own defence, or refuse him the aid of counsel in the conduct of such defence, he would manifestly be deprived of a constitutional right, and a judgment against him on such trial should be reversed. In my opinion any order or action of the Court which, without evident necessity, imposes physical burdens, pains, and restraints upon a prisoner during the progress of his trial, inevitably tends to confuse and embarrass his mental faculties, and thereby materially to abridge and prejudicially affect his constitutional rights of defence; and especially would such physical bonds and restraints in like manner materially impair and prejudicially affect his statutory privilege of becoming a competent witness and testifying in his own behalf. Again, to require a prisoner during the progress of his trial before the Court and jury to appear and remain with chains and shackles upon his limbs, without evident necessity for such restraint for the purpose of securing his presence for judgment, is a direct violation of the common law rule, and of section 13 of our Criminal Practice Act.

In the present case there is no pretence of necessity for the manacles and chains upon the defendants during their trial, to secure their presence to answer the judgment. The action of the Court, as disclosed by the bill of exceptions, was manifestly erroneous and materially prejudicial to the legal rights of defendants.

Judgment reversed, and cause remanded for a new trial.

On Monday evening, the 18th inst., Mr. Jacob Waley will read a paper at a meeting of the Social Science Association, "On the Devolution, Transfer, and Disposition of Land."

Dr. A. R. Adams, Q.C., Recorder of Birmingham, who was recently appointed assessor of the Vice-Chancellor's Court of Oxford University, has been placed on the Commission of the Peace for Oxfordshire.

General the Hon. Sir James Yorke Scarlett, G.C.B., who died on the 6th inst., was the second son of Sir James Scarlett (created Lord Abinger), who was Lord Chief Baron from 1834 till his death in 1844.

PUBLIC COMPANIES.

GOVERNMENT FUNDS.

LAST QUOTATION, Dec. 15, 1871.

From the Official List of the actual business transacted.

3 per Cent. Consols, 92¼
Ditto for Account, Jan. 4, 92⅜ xd
3 per Cent. Reduced 92¼
New 3 per Cent., 92¼
Do. 3½ per Cent., Jan. '94
Do. 2½ per Cent., Jan. '94
Do. 5 per Cent., Jan. '73
Annuities, Jan. '80—
Annuities, April, '85
Do. (Red Sea T.) Aug. 1908
Ex Bills, £1000, — per Ct. 4 p m
Ditto, £500, Do' — 2 p m
Ditto, £100 & £200, — 2 p m
Bank of England Stock, 4½ per Ct. (last half-year) 241
Ditto for Account.

INDIAN GOVERNMENT SECURITIES.

India Stk., 10½ p Ct. Apr. '74, 206
Ditto for Account
Ditto 5 per Cent., July, '80 110½ x d
Ditto for Account.—
Ditto 4 per Cent., Oct. '88 104¼
Ditto, ditto, Certificates, —
Ditto Enfaced Ppr., 4 per Cent. 96½
Ind. Enf. Pr., 5 p C., Jan. '72 97½
Ditto, 5½ per Cent., May, '79 109
Ditto Debentures, per Cent., April, '84 —
Do. Do ,5 per Cent., Aug. '73 102⅜
Do. Bonds, 4 per Ct., £1000 22 p m
Ditto, ditto, under £1000, 25 p m

RAILWAY STOCK.

	Railways.	Paid.	Closing prices
Stock	Bristol and Exeter	100	107
Stock	Caledonian	100	117
Stock	Glasgow and South-Western	100	127
Stock	Great Eastern Ordinary Stock	100	50
Stock	Great Northern	100	138½
Stock	Do., A Stock*	100	167
Stock	Great Southern and Western of Ireland	100	108
Stock	Great Western—Original	100	112½
Stock	Lancashire and Yorkshire	100	160
Stock	London, Brighton, and South Coast	100	69
Stock	London, Chatham, and Dover	100	26½
Stock	London and North-Western	100	151½
Stock	London and South-Western	100	110½
Stock	Manchester, Sheffield, and Lincoln	100	77½
Stock	Metropolitan	100	73¾
Stock	Midland	100	145¾
Stock	Do., Birmingham and Derby	100	113
Stock	North British	100	57⅛
Stock	North London	100	127
Stock	North Staffordshire	100	80
Stock	South Devon	100	74
Stock	South-Eastern	100	99½
Stock	Taff Vale	100	162

* A receives no dividend until 6 per cent. has been paid to B.

INSURANCE COMPANIES.

No. of Shares	Dividend per annum	Names.	Shares.	Paid.	Price per share.
			£	£ s. d.	£ s. d
5000	8 pc & bs	Clerical, Med. & Gen. Life	100	10 0 0	25 15 0
4000	40 pc & bs	County	100	10 0 0	75 0 0
24440	5 pc & bs	Eagle	50	5 0 0	6 2 6
10000	10 per cent	Equity and Law	100	6 0 0	9 5 0
20000	77 10s p c	English & Scot. Law Life	50	3 10 0	5 12 6
2700	5 per cent	Equitable Reversionary...	105	...	92 10 0
4500	5 per cent	Do. New	50	50 0 0	43 10 0
5000	5 & 2 pah b	Gresham Life	20	5 0 0	
20000	5 p c & bs	Guardian	100	50 0 0	55 0 0
20000	6 per cent	Home & Col. Ass., Limtd.	50	5 0 0	4 15 0
7500	10 per cent	Imperial Life	100	10 0 0	17 0 0
50000	15 per cent	Law Fire	100	2 10 0	5 0 0
10000	4l 4s ps & b	Law Life	100	96 5 0	100 0 0
100000	12 per cent	Law Union	10	0 10 0	0 18 0
20000	5l 17s 6d pc	Legal & General Life ...	50	8 0 0	9 0 0
20000	4l 13s 9d pc	London & Provincial Law	50	5 17 8	5 10 0
40000	30 per cent	North Brit. & Mercantile	50	6 5 0	29 0 0
2500	12½ & bns	Provident Life	100	10 0 0	35 0 0
89229	20 per cent	Royal Exchange... ...	Stock	All	£350

MONEY MARKET AND CITY INTELLIGENCE.

In the early part of the week the money market transactions and the prices registered were almost nominal; the Prince of Wales's condition seemed the absorbing topic, and business fell into suspense. No doubt, had a fatal termination been announced, an instant fall would have been the result. The hopes which are fostered by the later accounts from Sandringham, coupled with the reduction of the Bank discount rate from 3½ to 3 per cent., have caused the markets to resume an animated appearance, prices with an upward tendency.

A strong effort is about to be made to rescue the Erie Railway from the hands of those who have so long made use of it for their own private purposes, to the utter ruin of many of the shareholders. A circular issued by Mr. James M'Henry refers to the successful reorganisation of the Atlantic and Great Western Railroad, and states that he now proposes, if supported by the Erie proprietors, to commence energetic proceedings for the removal of the present directors of the Erie Railway, and placing in power an honest administration. He requests, therefore, that all Erie shares shall be deposited with Messrs. Bischoffsheim and Goldschmidt, who have consented to act as agents for the reorganisation of the line, and to issue certificates for the same, as in the case of the Atlantic and Great Western Railway. There is reason to believe that the policy which has resulted so satisfactorily in the one instance will be equally successful in the other. The agency will not be in any way antagonistic to the action or objects of the existing "Protection Committee," but will, on the contrary, be directed to the very end that Committee has in view. The shares will be received without charge by Messrs. Bischoffsheim and Goldschmidt, on or before the 23rd inst., and will not be subject to any contribution until the administration of the railway is reformed and payments of dividends resumed.

A circular issued by Mr. James M'Henry to the bond, debenture, and shareholders of the Atlantic and Great Western Railroad, states that the line is now under the control of its owners, the formalities required for placing it directly in charge of the board of directors having been completed. The bonds of the reorganised company will be dated 1st January, 1872. A list is also given of an influential board of directors elected on Tuesday.

The subscription list of the Mammoth Copperopolis of Utah (Limited), will close for London on Monday next, the 18th inst.; and for the Country on Tuesday.

The subscription lists for the shares of the Louth and Lincoln Railway will be closed on Monday the 18th inst. for London, and on Tuesday the 19th inst. for country applications. The shares are quoted at 3¾ and 4 prem.

A circular has been issued by the Erie Protection Committee, which will be satisfactory to the shareholders in favour of the new movement commenced by Mr. M'Henry and Messrs. Bischoffsheim & Goldschmidt. The Committee are prepared to support that movement, if they should see fit, as soon as they shall have been made acquainted with everything that is to be done; but they are afraid that the interests of Messrs. M'Henry & Bischoffsheim in the Atlantic and Great Western Railroad may become incompatible with those of the Erie Railway proprietors.

BIRTHS, MARRIAGES, AND DEATHS.

BIRTHS.

LANGDON—On Dec. 12, at Llanrwst House, Hastings, the wife of A. W. Langdon, Esq., M.A., of Lincoln's-inn, of a son.
PUGH—On Dec. 2, at 21, Granville-pl., Portman-square, the wife of L. P. Pugh, Esq., barrister-at-law, of a son.
STREET—On Dec. 12, at 8, Randolph-crescent, the wife of J. B. Street, Esq., barrister-at-law, of a son.

MARRIAGES,

KIRBY—PAGET—On Dec. 11, at the Great Meeting, Leicester, Francis J. F. Kirby, solicitor, to Annie Coroline, fourth daughter of Alfred Paget, Esq., solicitor.
WALKER—FORSTER—On Dec. 12, at St. Martin's, East Woodhay, Hants, James Douglas Walker, of Blairton, Aberdeenshire, Esq., and of Lincoln's-inn, barrister-at-law, to Susan M., youngest daughter of John Forster, of Malverleys, Hants, Esq.

DEATHS.

BLAINE—On Dec. 13, at 8, Southwick-place, Hyde-park-square, Delabere Roberton Blaine, Esq., of the Middle Temple, Judge of the Marylebone County Court, aged 64.
HEATON—On Dec. 7, C. H. Heaton, Esq., barrister-at-law, of the Middle Temple, and Turnham-green, aged 80 years.
HUMPHRYS—On Dec. 7, at Clifton, William Humfrys, of Hereford, solicitor, in his 74th year.
TEPPER—On Dec. 10, at his residence, Notting-hill-square, Jabez Tepper, Esq., solicitor, of 15, Bedford-row, and The Dicker, Sussex, aged 54.

LONDON GAZETTES.

Professional Partnerships Dissolved.

TUESDAY, Dec. 12, 1871.

Booty, John Gillam, & Richd Butt, Raymond-bldgs, Gray's-inn, Attorneys and Solicitors. Nov 27

Winding up of Joint Stock Companies.

FRIDAY, Dec. 8, 1871.

UNLIMITED IN CHANCERY.

South Devon Mutual Shipping Assurance Association.—Creditors are required, on or before Jan 4, to send their names and addresses, and the particulars of their debts or claims to Hy Blanchford, Teignmouth. Friday, Jan 19 at 11, is appointed for hearing and adjudicating upon the debts and claims.

Waterloo and Whitehall Railway Company.—Creditors are required, on or before Jan 12, to send their names and addresses, and the particulars of their debts or claims, to John Parson, 7, Westminster-chambers, Victoria-st. Friday, Jan 26 at 12, is appointed for hearing and adjudicating upon the debts and claims.

TUESDAY, Dec. 12, 1871.

UNLIMITED IN CHANCERY.

Everton and West Derby Permanent Benefit Building Society.—Petition for winding up, presented Dec 6, directed to be heard before Vice-Chancellor Wickens on Dec 22. Nisbet & Co, Lincoln's-inn-fields, solicitors for the petitioner.

LIMITED IN CHANCERY.

Greenwood & Company (Limited).—Petition for winding up, presented Dec 11, directed to be heard before Vice-Chancellor Malins on Dec 22. Shephard, College-st, College-hill, solicitor for the petitioners.

Watlington Gas Company (Limited).—The Master of the Rolls has fixed Dec 18 at 12, at his chambers, for the appointment of an official liquidator.

Friendly Societies Dissolved.

FRIDAY, Dec 8, 1871.

George Stephenson Friendly Society, Green Market-inn, Green-st, Newcastle-on-Tyne. Nov 25

New Club Friendly Society, White Horse Inn, Old Buckenham, Norfolk. Dec 7

New United Friendly Society, Masons' Arms, Cefn Bychan, Denbigh. Dec 5

Olive Branch Friendly Society, Vestry of the Baptist Chapel, Friston, Suffolk. Dec 4

Stratton Friendly Society, National School Room, Stratton-on-the-Fosse, Somerset. Dec 1

TUESDAY Dec. 12, 1871.

First Female Friendly Society, Ship Inn, Cawsand, Cornwall. Dec 8

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY Dec. 8, 1871.

Cary, Hy Nicholas, Paignton, Devon, Brewer. Jan 8. Rossiter *v* Cary, V.C. Malins. Eastley, Paignton

Lote, Rev Edwd, Cambridge. Jan 8. Gray *v* Cook, V.C. Wickens, Dawes & Son, Angel-ct

Parkin, Wm, Montomley, York, Joiner. Jan 4. Swift *v* Parkin, M.R. Younge & Co, Sheffield

Rodda, John, Clissold rd, Stoke Newington, Builder. Jan 1. Walker *v* Rodda, M.R. Haynes, Manchester-st, Manchester-sq

NEXT OF KIN.

Small, John, Guisborough, York, Gent. Jan 11. Dawson *v* Small, V.C. Bacon

TUESDAY, Dec. 12, 1871.

Collman, Wm, Deal, Kent, Purser R.N. Jan 8. Mason *v* Hulke, M.R. Martin, Deal

Guylee, Wm, sen, Ropsley, Lincoln, Farmer. Jan 11. Guylee *v* Guylee, V.C. Bacon, Beaumont, Grantham

Ponsford, John, Cambridge-st, Paddington, Gent. Jan 4. Cockerton *v* Langmead, M.R. Millman, Southampton-bldgs, Chancery-lane

Pote, Rev Edwd, King's College, Cambridge. Jan 8. Gray *v* Cooke, V.C. Wickens. Dawes & Sons, Angel-ct

Williams, John, Hewelsfield, Gloucester, Farmer. Marshall *v* Bullock, V.C. Wickens.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, Dec. 8, 1871.

Addison, Geo, Hoghouse, nr Broughton in Furness, Lancashire, Yeoman. Jan 10. Meakin, Broughton in Furness

Akers, Benj, Great Dunmow, Essex, Labourer. Feb 1. Snell, Great Dunmow

Ash, Geo, Leeds, Innkeeper. March 1. Markland & Davy, Leeds

Astley, Blanch, York-ter, Regent's-pk, Spinster. Jan 15. Kent & Co, Fakenham

Attenborough, John, Long Eaton, Derby, Cattle Dealer. Feb 1. Brittle, Nottingham

Austin, Geo, Shefford, Bedford, Attorney-at-law. March 4. Gery, Shefford

Ayres, Chas, Reading, Berks, Coal Merchant. Jan 20. Hoffman, Reading

Barge, Thos, Beech Mount, Manch, Esq. Jan 17. Blair & Binney, Manch

Combes, Edwd, Chichester, Gent. Jan 12. Arnold, Chichester

Dalvell, Dame Maria, Belgrave-rd, Pimlico, Widow, Jan 6. Bircham & Co, Parliament-st, Westminster

Davenport, Wm Sharington, Davenport, Salop, Esq. Jan 14. Gordon & Nicholls

Field, Hy, Litton, Derby, Estate Agent. Dec 16. Rev Arthur Field, Peak Forest, nr Stockport

Frewen, Moreton John Edwd, Brighton, Sussex, Esq. Dec 30. James & Co, Ely-pl

Fulford, Baldwin, Gt Fulford, Devon, Esq. Jan 3. Samler, Carter-lane, Doctors'-commons

Hall, Jas, Aylesford, Kent, Yeoman. June 24. Monkcton & Son, Maidstone

Henville, Mary, Worle, Somerset, Spinster. Jan 1. Davies, Weston-super-Mare

Hands, Richd, sen, Stoneleigh, Warwick, Gent. Jan 15. Minster & Son, Coventry

Jones, Mary, Ponsonby-pl, Westminster. Jan 1. Draper, Vincent-sq, Westminster

Morant, Rev Hy John, Knapton Hall, Norfolk. Feb 2. Domville & Co, New-sq, Lincoln's-inn

Price, Robt, Bristol, Timber Merchant. March 25. Plummer, Bristol

Rickeard, Simon Lawer, Tolcarne, Cornwall, Yeoman. Jan 11. Nicholls, St Columb

Smith, Wm, Torrigton-mews, Torrington-sq, Cab Proprietor. Jan 5. Munton, Old Fish-st-hill

Titlow, Rev Saml, Norwich. Feb 1. Winter & Francis, Norwich

Vicat, Emily Alice, Eltham, Kent, Spinster. Feb 1. Robinson & Co, Charterhouse-sq

Vicat, Jas, Eltham, Kent, Esq. Feb 1. Robinson & Co, Charterhouse-sq

Wight, Eliz, Bonner's Field, Monkwearmouth Shore, Durham, Grocer. Jan 25. Simey, Sunderland

Woodson, Ann, Leeds, Widow. Jan 6. Scott, Leeds

TUESDAY, Dec. 12, 1871.

Andrew, Mark, Mossley, York, Gent. Jan 31. Gartside

Bidwell, Alfred Clarke, Winchester, Hants, Esq. Jan 10. Farrer & Co, Lincoln's-inn-fields

Cawardine, John Bryan Colne Priory, Essex, Clerk in Holy Orders. Jan 31. Paine & Layton, Gresham House, Old Broad-st

Chearnley, Wm, Halifax, Novia Scotia, Gent. Jan 10. Bischoff & Co, Gt Winchester-st-bldgs

Cropp, Thos John, Manch, Merchant. Feb 20. Sale & Co, Manch

Dover, Thos, Anfield, nr Lpool, Esq. Jan 1. Anthony, Lpool

Edwards, Eliz, Chester, Widow. March 30. Bridgman & Co, Chester

Ford, Fredk, Middle Wallop, Hants, Gent. Jan 6. Kelsey & Son, Salisbury

Forster, Richd, Freshford, Somerset, Brewer. Feb 1. Stone & Sparks, Bradford-upon-Avon

Gill, Eleanor, Orrell, Lancashire, Widow. Jan 14. Anthony, Lpool

Hedges, Susan, Bristol, Widow. Jan 12. Nash, Bristol

Hughes, Thos, Stone, Gloucester, Union Master. Jan 20. Gaisford & Scott, Berkeley

Kaye, Geo Lister Lister, Heworth, York, Esq. March 1. Gray, York

Mitchell, Geo, Liversedge Hall, York, Farmer. Jan 9. Dean, Batley

Morris, Maria, Penhow, Monmouth, Grocer. Jan 6. Cathcart, Newport

Nuttall, Isaac, Lancashire, Heaton Norris, Yeoman. Jan 17. Smith, Stockport

Reame, David, Shrewsbury, Salop, Painter. Feb 10. Morris, Shrewsbury

Smith, Octavius Hy, Princes Gate, Hyde-pk, Esq. Feb 6. Few & Co, Henrietta-st. Covent-garden

Speer, Maria, Weston, Thames Ditton, Surrey. Jan 21. Kempson & Co, Abingdon-st, Westminster

Todd, Robt, Thornby Moor, Cumberland, Yeoman. Jan 31. Mounsey, Carlisle

Tuck, Geo, Shipdham, Norfolk, Farmer. Jan 31. Soames, New-inn, Strand

Vincent, Wm, Ansford, Somerset, Gent. Feb 1. Dyne, Bruton

Walton, Fras, Surbiton, Surrey, Esq. Jan 9. Mortimer, Mitre-ct-chambers, Temple

Wilmshurst, Emellia Eliz. Parson's Mead, Croydon, Surrey. Jan 7. Hogan, Martin's-lane, Cannon-st

Bankrupts.

FRIDAY, Dec. 8, 1871.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in London.

Easey, Jas, Victoria-ter, Bermondsey, Cheesemonger. Pet Dec 6. Hazlitt. Dec 20 at 12

Norfolk, W J Fredk, Coleman-st, Accountant. Pet Dec 6. Spring-Rice. Dec 21 at 11

Parker, Hon. Geo Augustus, late Lieut 1st Reg Life Guards. Pet Dec 1. Spring-Rice. Jan 11 at 11

Pulling, Geo, High Holborn, Upholsterer. Pet Dec 6. Spring-Rice. Dec 21 at 12

To Surrender in the Country.

Baxter, Robt, Banbury, Boot Dealer. Pet Dec 4. Fortescue. Banbury, Dec 19 at 2

Cole, John, Cambridge, Tailor. Pet Dec 6. Harris. Cambridge, Dec 20 at 12

Crook, Joseph, Bradford, York, Licensed Victualler. Pet Dec 5. Robinson. Bradford, Dec 19 at 9

Dodman, Thos Moore, St Helen's, Lancashire, Builder. Pet Dec 4. Watson. Lpool, Dec 19 at 2

Driscoll, John, & Eliza Touron, Cardiff, Potato Merchants. Pet Dec 2. Langley. Cardiff, Dec 20 at 12

Fielden, John Cocking, Blackburn, Lancashire, Cotton Manufacturer. Pet Dec 4. Bolton. Blackburn, Dec 20 at 10

Fielden, Thos, Blackburn, Lancashire, Commercial Traveller. Pet Dec 4. Bolton. Blackburn, Dec 20 at 10

Gillies, Eliz, Halifax, York, Physician. Pet Dec 4. Rankin. Halifax, Dec 22 at 10

Price, Richd Pursell, Shrewsbury, Salop, Wine Merchant. Pet Dec 4. Peele. Shrewsbury, Dec 23 at 11

Williams, Wm, Swansea, Glamorgan, Contractor. Pet Nov 28. Morris. Swansea, Dec 19 at 3

Wood, Edwd Powys, Parkhurst, Hants. Pet Dec 2. Blake, Newport, Dec 20 at 1

TUESDAY, Dec. 12, 1871.

Under the Bankruptcy Act, 1869.

Creditors must forward their proofs of debts to the Registrar.

To Surrender in the Country.

Cameron, Hugh Thos, Bassett-grove, Lavender hill, Wandsworth, Gent. Pet Dec 5. Willoughby. Wandsworth, Jan 2 at 11

King, Geo Loy, Bristol, Attorney. Pet Dec 8. Harley. Bristol, Dec 28 at 12

Mussett, Jas, jun, West Mersea, Essex, Oyster Merchant. Pet Dec 4. Barnes. Colchester, Dec 27 at 10

Pearcy, Arthur Thos, Hailsham, Sussex, Grocer. Pet Dec 8. Blaker. Lewes, Dec 22 at 11

BANKRUPTCIES ANNULLED.

FRIDAY, Dec. 8, 1871.

Chadwick, John, & Geo Turner, Heywood, Lancashire, Cotton Manufacturers. Dec 6

TUESDAY, Dec. 12, 1871.

Bailey, Rev Wm Bulmer, Axminster, Devon. Dec 6
Hayward, Richd, Woodbridge, Suffolk, Cabinet Maker. Dec 9
Schofield, Saml, Mold Green, Huddersfield, out of business. Dec 6

Liquidation by Arrangement.

FIRST MEETINGS OF CREDITORS.

FRIDAY, Dec. 8, 1871.

Allen, Wm, Luton, Bedford, Dealer. Dec 20 at 11, at offices of Scargill, King-st, Luton
Baynes, Wm, Richd, Southampton, Hatter. Dec 20 at 2, at offices of Nicholls & Leatherdale, Old Jewry-chambers. Swayne, Southampton
Benson, Hy, Blackburn-ter, Blue Anchor-rd, Bermondsey, Baker. Dec 16 at 1. at office of Hicks, Coleman-st
Bolton, Geo Frost, Newcastle-upon-Tyne, Grocer. Dec 18 at 12, at offices of Hoyle & Co, Mosley-st, Newcastle-upon-Tyne
Booth, John, Skellingthorpe, Lincoln, Farmer. Dec 19 at 11, at offices of Toynbee & Larken, Lincoln
Carter, Geo, Birm, Grocer. Dec 20 at 3, at the Acorn Hotel, Temple-st, Birm. Powell, Birm
Charles, Wm Taylor. & John Andrew Charles, Sheffield, Steel Rollers Merchants. Dec 20 at 2, at the Old Council-hall, Norfolk-st, Sheffield. Broomhead & Co, Sheffield
Collins, Albert, Overstone-rd, Hammersmith, Builder. Dec 19 at 12, at offices of Payne, King's-rd, Bedford-row
Cook, Reuben, Blaenavon, Monmouth, Grocer. Dec 21 at 11.30, at office of Dixon, Pontymister, nr Newport
Crabtree, Joseph, Dewsbury, York, Cabinet Maker. Dec 20 at 3. at offices of Shaw, Bond-st, Dewsbury
Darvil, Geo Ebenezer, High Wycombe, Buckingham, Boot Maker. Dec 22 at 3, at 90, Easton-st, High Wycombe
Duffill, Miles, York, Upholsterer. Dec 27 at 3, at office of Watson, Museum-st, York
East, Thos, Lincoln, Corn Merchant. Dec 13 at 11, at office of Rex, Saltergate
Eaton, Saml, Kettering, Hants, Shoe Manufacturer. Dec 29 at 11, at offices of Marshall, George-st, Kettering
Ellam, John, Openshaw, nr Manch, Iron Manufacturer. Dec 28 at 3, at office of Sale & Co, Booth-st, Manch
Ferguson, Chas Augustus, jun, & John Wm Humphrey, Millwall, Poplar, Mast Maker. Dec 20 at 1, at the Corn Exchange Tavern, Mark-lane. Fry, Mark-lane
Foster, Joseph Oliver, Lpool, Beerhouse Keeper. Dec 22 at 3, at offices of Gibson & Bolland, South John-st, Lpool. Williams, Lpool
Fox, Chas Wm Young, Sparbrook, nr Birm, Heraldic Engraver. Dec 15 at 10, at office of East, Colmore-row, Birm
Fox, Jane Ann, Lewisham Park, Schoolmistress. Dec 20 at 2, at office of Crow, North-rd, New Cross
Franklin, Geo Hy, Bristol, Baker. Dec 19 at 2, at offices of Beckingham, Albion-chambers, Broad-st, Bristol
George, Danl, Merthyr Tydfil, Glamorgan, Chemist. Dec 20 at 12, at offices of Morgan & White, Victoria-st, Merthyr Tydfil
Goodrich, Thos White, Worthing, Sussex, no occupation. Jan 4 at 3, at offices of Lawrance & Co, Old Jewry-chambers
Gray, Wm, Tottenham-ct-rd, Greengrocer. Dec 18 at 2, at offices of Williams, Alfred-pl, Bedford-sq
Grey, Hy, Flask-walk, Hampstead, Builder. Dec 27 at 4, at Mullens' Hotel, Ironmonger-lane. Downing, Basinghall-st
Hamilton, Jas Allan, Rochdale, Lancashire, Malt Dealer. Dec 21 at 3, at offices of Holland, Baillie-st, Rochdale
Hardwick, John, Eaton-ter, Grove-st-rd, South Hackney, Comm Agent. Dec 22 at 1, at offices of Fox & Robinson, Gresham-house, Old Broad-st
Hargreaves, Jas Hy, Timperley, Chester, Stock Broker. Dec 21 at 2, at office of Evans, St George's-chambers, Albert-sq, Manch
Haward, Wm, Laxfield, Suffolk, Plumber. Dec 27 at 2, at office of Pollard, St Lawrence-st, Ipswich
Holland, Wm Major, Park-rd, Dalston, out of business. Dec 18 at 1, at office of Dobie, Basinghall-st
Ingham, John, Manch, Drysalter. Dec 20 at 3, at offices of Gardner & Horner, Cross-st, Manch
Ingle, Wm, jun, Warnford-ct, Throgmorton-st, Wine Merchant. Jan 2 at 12, at offices of Harrison, Walbrook
Johnston, Thos, Kingston-upon-Hull, Cooper. Dec 20 at 4, at the Kingston Hotel, Scale-lane, Kingston-upon-Hull. Spurr
Jordan, Margaret, Lpool, Shipping Butcher. Dec 22 at 3, at offices of Yates, South John-st, Lpool
Keed, Geo Franks, Bognor, Sussex, Grocer. Dec 22 at 2, at offices of Izard & Betts, Eastcheap. Carter & Bell, Leadenhall-st
Keenan, Barnard, Stockton-on-Tees, Durham, Clothier. Dec 19 at 12, at the Royal Hotel, Manch. Dodds & Trotter, Stockton-on-Tees
Kennell, Stephen, Lewisham-ter, Devonshire-rd, Forest-hill, Cab Driver. Dec 18 at 1, at offices of Barton & Drew, Fore-st, Finsbury
Large, John, Yardley, Worcester, Carpenter. Dec 14 at 11, at offices of Harrison, Newhall-st, Birm
Lee, John Wilson, Manch, Comm Agent. Dec 1 at 3, at offices of Leigh, Brown-st, Manch
Lowry, Geo, & Robt Jas Lowry, Bolton, Lancashire, Flax Spinners. Dec 20 at 11, at offices of Affleck & Broderick, Cross-st, Manch. Richardson & Dowling
Marsh, Wm, Sparshold, Hants, Farmer, Dec 22 at 2, at offices of Waters, Upper High-st, Winchester
Mason, Thos Chapell, Wednesbury, Stafford, Butcher. Dec 20 at 11, at offices of Sheldon, Lower High-st, Wednesbury
McGirr, Robt, Northampton, Draper. Dec 29 at 11, at offices of Jeffery & Son, Newland, Northampton
McLeod, Alex, Ipswich, Suffolk, Travelling Draper. Dec 27 at 12, at office of Pollard, St Lawrence-st, Ipswich
McMahon, Michael, Lpool, Comm Agent. Dec 22 at 3, at office of Carmichael, Cambridge-chambers, Lpool
Nicholson, John Wm, Salem, nr Oldham, Lancashire, Printer. Dec 20 at 3, at offices of Sampson, St James'-chambers, South King-st, Manch
Nunn, John, Brighton, Sussex, Publican. Dec 20 at 12, at 34, Old Jewry. Black & Co, Brighton
Ovington, Joshua, Langcliffe, York, Paper Manufacturer. Dec 20 at 10.30, at offices of Wood & Killick, Commercial Bank-bldgs, Piece-hall-yd, Bradford
Oxley, Robt, Bristol, Wine Merchant. Dec 18 at 12, at offices of Alexander & Daniel, Broad-st. Press & Inskip, Bristol
Parkin, Joseph, Sheffield, Merchant. Dec 22 at 4, at offices of Broomhead & Co, Bank-chambers, George-st, Sheffield
Pilborough, Geo, Kingston-on-Thames, Surrey, Toy Dealer. Dec 21 at 3, at office of Buckland, Market-pl, Kingston-on-Thames
Porteus, Geo, Leads, Grocer. Dec 20 at 2, at offices of Hardwick, Boar-lane, Leeds
Rannie, Wm, Portsea, Hants, Engineer. Dec 19 at 11, at offices of Wainscot, Union-st, Portsea. Pearce, Portsea
Read, John Crow, Exeter, Artist. Dec 30 at 10, at office of Andrew, Bedford-circus. Huggins, Exeter
Roodhouse, Anthony, & Alb Hartley, Barnsley, York, Common Brewers. Dec 21 at 11, at offices of Dibb, Regent-st, Barnsley
Samuels, Lewis, Grange, Wilts, Dealer. Dec 22 at 3, at offices of Pocock & Son, High-st, Bristol Bartrum, Bath
Sellar, Robt, Manch, Ale Merchant. Jan 3 at 2, at office of Cobbett & Co, Brown-st, Manch
Sharpe, John Carr, Lombard-st, Gunpowder Manufacturer. Dec 16 at 12, at the Guildhall Hotel, Gresham-st. Chandler, Bucklersbury
Singlehurst, Chas Robt, Lpool, Broker. Dec 20 at 2, at offices of Goodman, Sweeting-st, Lpool
Steeper, Geo, Upper Whitecross-st, St Luke's, Grocer. Dec 21 at 2, at offices of Izard & Betts, Eastcheap. Reed & Lovell, Basinghall st
Tozer, Elias, Exeter, Newspaper Proprietor. Dec 21 at 11, at offices of Harris & Co, Gandy-st-chambers, Exeter, Trehane, Exeter.
Tucker, Joseph, Whitby, York, Jet Mount Dealer. Dec 27 at 2, at offices of Gray & Pannett, Flowergate, Whitby
Turner, John, Hanley, Stafford, Joiner. Dec 18 at 11, at the County Court Office, Hanley. Tennant, Hanley
Valentine, Noah, Manch, Timber Merchant. Dec 21 at 11, at offices of Ritson, John Dalton-st, Manch
Vincent, Hy, Wolverhampton, Stafford, Wheelwright. Dec 20 at 11, at offices of Marsden, King-st, Wolverhampton
Walker, Benj, & Alice Walker, Tonge, nr Middleton, Wheelwrights. Dec 29 at 2, at offices of Cobbett & Co, Brown-st, Manch
Walker, Thos, Lincoln, Dealer in Fruit. Dec 23 at 11, at office of Rex, Saltergate, Lincoln
Walker, Wm, Openshaw, nr Manch, Iron Manufacturer. Dec 21 at 3, at office of Sale & Co, Booth-st, Manch
Watson, Jane Eliz, Halifax, York, Ironmonger. Dec 18 at 3.30, at offices of Hill & Smith, Harrison-rd, Halifax
Wolstenholme, Jas, Blackburn, Lancashire, Joiner. Dec 21 at 11, at offices of Turner, King-st, Blackburn. Swift, Blackburn

TUESDAY, Dec. 12, 1871.

Allen, Benj, Hanley, Stafford, Blacksmith. Dec 21 at 11, at office of Welch, Caroline-st, Longton
Austin, Albert, Well-st, Camberwell, Boot Maker. Dec 20 at 11, at offices of Haigh, jun, King-st, Cheapside
Bishop, Chas, Powis-st, Woolwich, Undertaker. Dec 21 at 11, at the Masons' Hall, William-st, Woolwich. Elworthy, Woolwich
Bond, Chas Robt, Eastbourne, Sussex, Coal Merchant. Dec 23 at 11, at 44, Terminus-rd, Eastbourne. Wheatcroft
Broughton, Godfrey, & Jas Broughton, Askern, York, Farmer. Dec 21 at 12, at offices of Shirley & Atkinson, St George-gate, Doncaster. Burdekin & Co
Chatterton, John, Manch, Chemical Manufacturer, Dec 29 at 3.30, at offices of Sale & Co, Booth-st, Manch
Cook, Reuben, Blaenavon, Monmouth, Grocer. Dec 21, at the Westgate Hotel, Newport (in lieu of the place originally named)
Cresswell, Hy Wm, Nicholas-lane, Iron Merchant. Dec 22 at 2, at office of Miller, Gracechurch-st
Crouch, Stephen, Sheerness, Kent, Journeyman Carpenter. Jan 4 at 3, at office of Copland, Edward-st, Sheerness
Davies, Richd, Cardiff, Glamorgan, Innkeeper. Dec 23 at 11, at the Glendower Inn, Crichton-st, Cardiff
Davis, Geo Walter, Norfolk-rd, Dalston, Beerhouse Keeper. Dec 22 at 3, at offices of Layton, jun, Gresham-st
Day, Wm, Nottingham, Lacemaker. Dec 27 at 12, at offices of Acton, Imperial-bldgs, Victoria-st, Nottingham
Derbyshire, John, Longton, Stafford, Ironfounder. Dec 22 at 11, at the Union Hotel, Longton. Hawley, Longton
Durrant, Wm, Luton, Butcher. Dec 19 at 12, at the Plait Hall Hotel, Cheapside, Luton
Dutton, Saml Richd, Westbury, Wilts, Grocer. Dec 26 at 12.30, at the Bear Hotel, Melksham. Dunn & Payne, Frome
Elwell, Joseph Boden, Bartholomew-rd, Kentish Town, General Agent. Dec 21 at 1, at offices of Biddles, Southampton-bldgs
Evans, David, Builth, Brecon, Innkeeper. Dec 27 at 2, at the County Court Office, Builth. Llewellin, Builth
Eyre, Fras Mawe, Gloucester-rd, Regent's-park, Licensed Victualler. Jan 5 at 2, at offices of Wild & Co, Ironmonger-lane, Cheapside
Gerrie, Geo, Birm, Draper. Jan 3 at 2, at the Gt Western Hotel, Monmouth-st, Birm. Rowlands, Birm
Glaholm, John, Newcastle-upon-Tyne, Cartman. Dec 23 at 12, at offices of Bush, St Nicholas-bldgs, Newcastle-upon-Tyne
Gooch, Robt Stephen, John's-ter, Finsbury-rd, Wood Green, Contractor. Dec 22 at 2, at office of Brown, Westminster-chambers, Victoria-st, Westminster. Maynard, Clifford's-inn
Hampton, Wm, Bramley-rd, Notting-hill, Glass Dealer. Dec 28 at 12, at offices of Silifant, Gresham-bldgs, Guildhall. Herbert & Co, Gresham-bldgs, Guildhall
Hopkins, Thos John, Cranmer-rd, Brixton-rd, Coach Plater. Dec 29 at 2, at 55, Berners-st, Oxford-st. Oldreive
Horton, Vyse, Hanley, Stafford, Greengrocer. Dec 18 at 11, at office of Sutton, Burslem
Hunt, Eliz, & Agnes Hunt, Leicester, Hosiers. Dec 28 at 12, at offices of Fowler & Smith, Hotel st, Leicester
Ingram, Jas Hughes, Chatham, Kent, Railway Station Master. Dec 21 at 11, at 145, Chapside. Harcourt, Moorgate-st
Kiddell, Geo Elijah, Mercer-st, Long-acre, Waiter. Dec 19 at 2, at office of Reid, Hart-st, Bloomsbury

Knight, Geo, Brighton, Grainer. Dec 27 at 1, at office of Gutteridge, Ship-st, Brighton
Lee, John Wilson, Manch, Comm Agent. Dec 21 at 3, at office of Leigh, Brown-st, Manch
Monypenny, Wm David Cathcart, Gybbon, Bath, Esquire. Dec 27 at 12, at 18, Vineyards, Bath. Dyer, Bath
Newbon, Walt, Longton, Stafford, Joiner. Dec 28 at 2, at office of Welch, Caroline-st, Longton
Norton, Wm, Erskine-rd, Regent's-pk-rd, Eating House Keeper. Dec 22at 3, at offices of Parkes, Beaufort-pldgs, Strand
Nunn, Sturley, Ixworth, Suffolk, Solicitor. Dec 23 at 2, at the Angel Hotel, Bury St Edmunds. Walpole
Parker, John Robt, Bridgnorth, Salop, Innkeeper. Dec 22 at 11, at the Crown Hotel, Bridgnorth. Backhouse, Bridgnorth
Philcox, Saml, Hastings, Sussex, Saddler. Dec 22 at 12.30, at the Imperial Club, Cursitor-st, Chancery-lane. Philbrick
Pickard, Thos Hulse, Longton, Stafford, Beerseller. Dec 21 at 2, at office of Welch, Caroline-st, Longton
Plimmer, Hy, Grove Vale, East Dulwich, Beer Retailer. Dec 20 at 3, at the Cherry Tree, Grove Vale, East Dulwich. Longcroft, Lincoln's-inn-fields
Pringle, Matilda, Durham, Dressmaker. Dec 27 at 2, at offices of Bond, Cohingwood-st, Newcastle-upon-Tyne
Raberry, Jacob, Harrogate, York, Wine Merchant. Dec 28 at 12, at offices of Bateson, Albert-st, Harrogate
Richardson, Wm, Idbury, Oxford, out of business. Dec 26 at 3, at the White Hart Hotel, Moreton-in-the-Marsh. Kilby & Son, Chipping Norton
Rose, Pearl, Boxted, Essex, Farmer. Dec 21 at 12, at the Cross Keys Inn, St John-st, Smithfield. Goody, Colchester
Shipway, Chas, Margate, Kent, Draper. Dec 27 at 3, at 33, Gutter lane. Morris, Grocers' Hall-ct, Poultry
Smith, Joseph, Tipton, Stafford, Contractor. Dec 22 at 11, at offices of Travis, Church-lane, Tipton
Sturgis, Jas, Northampton, Stonemason. Dec 22 at 3.30, at office of Becke, Market-sq, Northampton
Temblett, Benj, Cardiff, Glamorgan, Publican. Dec 23 at 11, at offices of Bidgood, Arcade-chambers, Cardiff
Tinkham, John, jun, Smethwich, Stafford, Contractor. Dec 27 at 11 at offices of Shakespeare, Church-st, Oldbury
Ward, Alf, Manch, Drysalter. Dec 28 at 3, at offices of Whitt, Lower King.st, Manch
Warrall, Elisha, Salford, Lancashire, Cordwainer. Jan 3 at 4, at the Waggon and Horses Hotel, Back Bridge-st, Manch. Ward, Manch
Whitehead, Hy, Sheffield, out of business. Dec 22 at 12, at offices of Anty, Queen-st, Sheffield
Wilkins, Jas, Brighton, Sussex, Licensed Victualler. Dec 29 at 3, at offices of Lamb, Ship-st, Brighton
Williams, David Morris, Carmarthen, Contractor. Dec 23 at 10.5, at office of Lloyd, High-st, Haverfordwest
Wise, Edwd, Belgrave-mews, East Chapel-st, Belgrave-sq, Dairyman. Dec 20 at 2. at office of Dubois, Gresham-bldgs, Basinghall-st. Maynard, Clifford's-inn
Wrenn, Chas, Chiswick-lane, Chiswick West, Builder. Dec 20 at 2, at offices of Holloway, Ball's Pond-rd, Islington. Pope, Fenchurch-st

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